

BOARD OF MAYOR AND ALDERMEN

February 6, 2001

7:30 PM

Mayor Baines called the meeting to order.

The Clerk called the roll.

Present: Aldermen Wihby, Gatsas, Levasseur, Sysyn, Clancy, Pinard, O'Neil,
Lopez, Shea, Vaillancourt, Cashin, Thibault and Hirschmann

Absent: Alderman Pariseau

Mayor Baines recessed the regular meeting to allow the special meeting to continue.

Mayor Baines called the meeting back to order.

Mayor Baines stated what I would like to do at this time is to address an issue...initially make a presentation to go through a chronology of events so everybody has a good understanding of the situation with the Welfare controversy that is before us and we will prepare to do this. At this time, I would ask that the members of the Board...again I will speak on the issue and everyone will have an opportunity to be heard. We encourage the frank and open dialogue on the issue, but I hope this presentation will at least give a factual basis for where we stand regarding this issue.

Alderman Vaillancourt asked, your Honor, do I understand you to say that according to Rule 6 you are stepping down from the Chair.

Mayor Baines answered no. I am not speaking on a motion, I am making a presentation.

Alderman Levasseur stated you are about to bring this into the public. Once you open this up to the public then the whole book that was sent to us today will also be open to the public and everything you have in here will now be open for all of the Aldermen and for everybody to speak on. I just wanted to make you aware of that.

Mayor Baines replied I appreciate that. I don't believe we are doing that with this chronology, but I appreciate your comments.

Alderman Gatsas stated just so that you know I have turned in the package that was given to me in confidentiality. I don't know if the City Solicitor, Tom Clark, wants to expound on why I may have done that.

Solicitor Clark stated Alderman Gatsas gave me his package back. When a public official is given information in confidence and in private it is not open for the public and the release of that information could be a violation of the public officer's oath of office and his duties. Under general New Hampshire law, that has been found at times to be cause for dismissal.

Alderman Wihby asked so is the Solicitor saying that you should have never given it to us, is that he is saying.

Solicitor Clark answered no. I am saying that is shouldn't be released to the public.

Mayor Baines stated he is just advising me that you cannot release some of the information in there that has not already...a lot of it is public documents specifically outlining very specific things related to employees and others. I think that is what the Solicitor is talking about.

Solicitor Clark replied some of the documents that are in the packet are public records and have already been released. Others are not.

Alderman Levasseur stated I believe that the comments that were made by those who are in the Welfare Department and have also hired an attorney to represent them have now brought this issue into the public. I believe that the comments that were made...some of those allegations of course concerning fraud and other sorts of allegations of intimidation and fear have now brought this issue into the public, your Honor, so I don't believe now that we are protecting ourselves by what has been given to us today in this huge issue of facts and chronology and letters and such from your office, your Honor. I would just be aware that if we are going to continue on this path and we are going to discuss this any further, that I think I will be allowed to debate some of the issues that are in this supposedly confidential newsletter, but I don't think it is at this point. I am just letting you know that we are walking on very thin ice here.

Mayor Baines responded I appreciate your comments. I have just been advised by the City Solicitor that he would recommend that this presentation be made in non-public session.

Alderman Wihby asked don't we have to ask her.

Solicitor Clark answered Susan Lafond has been informed. Her attorney has been advised.

Alderman Vaillancourt stated I assume that we are going to debate this matter. At this point, I would reiterate that Rule 6 says, “he” meaning the Mayor “may express his opinion on any subject under debate, but in such case he shall leave the Chair and appoint some other member to take it.” I suggest that it is incumbent upon you to leave the chair as we enter this matter if you wish to express your opinion.

Alderman Shea replied I second that motion.

Mayor Baines responded it is not a motion and I don’t accept that.

Alderman Hirschmann stated I would like to appeal that to the Board, your Honor, for the Board to vote on. Alderman Levasseur duly seconded the appeal.

Alderman Cashin stated the fact that we are going into executive session, I think it doesn’t really make a difference who...he won’t be standing there anyway. We are going to be together and everyone is going to have to leave this room or we are going to have to go into another room. If it stays here, I agree with you.

Alderman Levasseur stated I don’t think we have to go into non-public session on this. I think the issue is pretty much out in the open with what has been spoken about by the Welfare employees themselves. Those people have brought the issue out. It is out in the open. I just wanted to make sure that you knew that once this has been brought out in the open and the allegations have been made that I feel that this is open for ambush right now – this whole document that was sent to us today. I agree that I think we should keep this in public to be honest with you.

Mayor Baines stated what I would like to do is move the presentation into non-public session but before doing so I would like to read a statement that I don’t believe gets into the concerns that have been expressed.

Alderman Cashin stated as Chairman of the Board, if you are going to read a statement then every other Alderman is going to have the right to make...

Alderman Wihby moved to enter into non-public session under the provisions of RSA-91:A-3 II(d) to discuss the Welfare situation. Alderman Hirschmann duly seconded the motion.

Alderman Gatsas stated I don’t believe I got an answer from the City Solicitor and neither did you. I believe she has been notified, but has she relinquished her right for non-public session?

Solicitor Clark replied she has been notified that she has the right to request a public session through her attorney.

Alderman Gatsas asked well she has been notified, but what was the position or what was the response.

Solicitor Clark answered there has been no response. This Board does have the right to go into non-public session unless she comes in and requests that it be public. She knows that it will happen.

Alderman Vaillancourt stated that is not the explanation you gave us two weeks ago when we went through this same matter. You said that she had a right to be here and to request whether it be in the open or not. What has happened in the intervening weeks?

Solicitor Clark replied there is no difference in the explanation I just gave you. At that point, she was not advised that the Board may go into non-public session ahead of time. She has been so advised this time.

Alderman Levasseur asked, Mr. Clark, is it your opinion that this Aldermanic Board has the right to overrule going into non-public session.

Solicitor Clark answered it is the Board's decision.

Alderman Shea asked when was she notified and when didn't you hear from her. When did you notify her about a public or non-public...I didn't even know there was going to be a non-public session myself until just now. When was she notified?

Solicitor Clark answered it was discussed with her attorney yesterday.

Alderman Shea asked and you didn't get an answer from her.

Solicitor Clark answered no.

Alderman Shea asked is there a time limit that a person has. Does anyone determine it?

Solicitor Clark answered no. They just have to have the opportunity to request a public session if they wish and she had that opportunity.

Alderman Shea asked she was notified that there would be an either private or public session regarding her. Is that correct?

Solicitor Clark answered my discussions were with her attorney. He was notified by me that the item would probably come up tonight at the Board meeting and if it did come up I would recommend that it be in non-public session and that she has the right if she wished to have it in public.

Alderman Shea asked there was nothing definitive about it coming up tonight. You used the word it might come up or perhaps it could come up. Is that correct?

Solicitor Clark answered I believe that is what I said.

Alderman Shea stated well whatever the case might be I don't think that is giving her a definitive answer on whether it would or would not come up. Anyway, that is a matter for another time.

Alderman Lopez stated I just want to make it very clear that you said that Alderman Gatsas gave you the packet back and if we discuss anything in here...would you please restate what you said.

Solicitor Clark replied what I said is that under the law, you are a public official and when you receive confidential information you are required to keep it confidential. If you don't keep it confidential and you release it to the public, there has been general law in New Hampshire that it could be a violation of your oath of office and could be cause for removal.

Alderman Levasseur asked is it your opinion, your Honor, that the presentation that you are about to make does not conflict with what you gave us. In other words, if there is nothing in that presentation that is in the packet there probably wouldn't be a problem but I have a feeling that what you are about to present follows the same book that we have and that is where we may lay for a serious lawsuit down the road. What is your opinion on that one?

Mayor Baines answered my opinion would be that this is a simple chronology of events.

Alderman Hirschmann asked could the record reflect that I gave my package back so I am not fired too.

Alderman Vaillancourt stated I want to get back to Alderman Shea's line of questioning. A lot of comments were made here tonight by members of the public. How can the Welfare Commissioner presumptively, in advance of knowing what would be done here tonight, make a decision as to whether or not she wanted to waive that. I don't know how. I am not a lawyer but I don't know how she could waive something yesterday not knowing what would transpire between that time and the time the move was made to go into executive session.

Alderman Levasseur replied he makes a good point because we were given this today.

Solicitor Clark responded I have had discussions with her attorney over the general barometers of what is going to be discussed tonight.

Mayor Baines stated to clarify we are talking about two different issues. Public forum, which is one separate entity. We are discussing a public official. Secondly, we have an issue related to a presentation and whether that presentation would be in public or non-public session. I am very comfortable taking Alderman Levasseur's concern and discussing it with the City Solicitor. My recommendation is that we would move this to non-public session and proceed.

Deputy Clerk Johnson stated the Clerk would just note that for the record we should clarify what the motion is on the floor and state the Statute that is the provision. The motion on the floor would be to enter into non-public session pursuant to RSA-91:A3 II(d). We would also be required to take a roll call vote on this item when you are ready.

Alderman Cashin asked this is at the recommendation of the City Solicitor, right.

Mayor Baines answered that is correct.

Mayor Baines called for the roll call vote on the motion to enter non-public session pursuant to RSA 91:A3II(d). Aldermen Wihby, Levasseur, Sysyn, Clancy, Pinard, and Hirschmann voted nay. Aldermen O'Neil, Lopez, Shea, Vaillancourt, Cashin, and Thibault voted yea. Alderman Gatsas abstained. Mayor Baines broke the tie and voted yea. The motion carried.

Alderman Levasseur asked don't you need a 2/3 vote on a situation like this.

Mayor Baines answered no.

A non public session was held. Present were members of the Board, David Scannell, and Wayne Robinson of the Mayor's office; Mark Hobson, Red Robidas, Christine

Martinson, and Howard Tawney of Human Resources; Mark Driscoll, Chief of Police; Deputy Solicitor Arnold, and Thomas Clark, City Solicitor; and Carol Johnson, Deputy City Clerk. Discussion ensued under the provisions of the purpose of this non-public session relative to the Welfare Department situation. Chief Driscoll addressed the Police Department's role and answered questions. Staff of the Human Resources Department addressed the Human Resources Department involvement and answered questions.

Upon conclusion of this discussion, on motion of Alderman Levasseur, duly seconded by Alderman Wihby, it was voted to return to public session.

Mayor Baines called the public meeting back to order.

Mayor Baines stated at this time I will be reading a statement after which time I will let the Board take direction in terms of where the rest of the evening is going to go.

Alderman Levasseur asked before you go forward could you explain how long we have been in non-public session for the record.

Mayor Baines answered I believe we went into non-public session around 8:15 PM.

Alderman Levasseur replied so three hours and fifteen minutes was the break where we were in non-public session. I would just like that to be on the record.

Mayor Baines stated I would like to, at this time, explain the series of events surrounding my decision to provide an alternative office space for the Commissioner of Welfare. Before going into the detail, let me assert, as explicitly as possible, that I believe based upon the facts available and the advice I received from a wide range of professionals whom I trust, that I made the right decision; one that serves my goal of protecting the interest of the taxpayers, the interest of the employees and the clients of the Welfare Department, and the interest of Commissioner Lafond. The decision to locate Commissioner Lafond's office in City Hall was not a decision I made lightly. Indeed, it was a last ditch effort to avoid a showdown at the Welfare Department that would have inhibited the ability of that office to serve this community's neediest citizens. It was a decision made after eight months, eight months of trying to work out a solution that protected both the employees and Commissioner Lafond and it was not a decision made in a vacuum. When it became clear that returning Commissioner Lafond to the Welfare Department offices on Chestnut Street would be akin in my view to throwing gas on a flame, I opted for a prudent course. One that allowed Commissioner Lafond to execute her statutory duties while addressing the real fears that the Welfare Department

employees had expressed over time. I consulted with the City Solicitor, the Assistant City Solicitor, the Chief of Police, the Director of Human Resources, the City Security Director, and the Director of the Employee Assistance Program. At a meeting last Thursday morning, it was agreed that the safest possible course to follow would be the establishment of an alternative work site for the Commissioner. Let me say that despite recent events, I have the highest regard for Commissioner Lafond's past history of accomplishment as Commissioner. Many people have commented on the good work she has done throughout her career. Indeed, I chose to put her on my transition team because I wanted Manchester's most vulnerable population to have a seat at the table. I also sided with Commissioner Lafond when she asserted that as an elected official she did not have to participate in the department head evaluation system. Her argument that the people are her ultimate evaluators has some merit. Therefore, those who suggested some personal animas motivates this process are wrong. Some months after taking office, I became aware of serious problems existing at the Welfare Department. A police investigation revealed that Commissioner Lafond was seldom in her office and she was collecting a yearly salary of over \$70,000 in pay and benefits without showing up for work on a regular basis. In fact, she was absent at one point for a period of four months without informing anyone that she would not be in the office and that fear and intimidation were, according to Welfare Department employees, often times the order of the day when Commissioner Lafond chose to make her presence known. As the Chief Executive Officer of this City, it is my responsibility to see to it that all City departments run in a manner that allows them to deliver City services in the most consistent and efficient manner possible. When a department head is not in her office for months at a time, this chronic absenteeism has a direct impact on consistency and efficiency. At a time when the City was facing the greatest housing shortage in its history, the official elected to oversee placement of those without homes was not in the office. How can she possibly be protecting the interest of the City's poor when she was not communicating with her employees? How can she advocate for the neediest in the community when she is not in her office to respond to the calls? When I learned of these problems I did not run to the paper or to Channel 9 or shout it from the rooftops. Instead, in a manner that was deliberate and respectful of Commissioner Lafond's feelings, I set in motion a series of attempts to bring Commissioner Lafond and the department employees to the table. I know that we tried everything to bring a resolution that was responsive to the needs of all parties. I would like to annunciate a few principles that need to be amplified. First, it is intolerable to expect the taxpayers to pay the salary of any City official, whether elected or appointed, without action being taken to make sure that at the very least the official in question shows up for work. I was elected and took an oath to protect the rights of the taxpayers and I will not allow, without some public discussion, anyone who receives a paycheck, especially one as large as Commissioner Lafond's, to fail to show up for work. I would ask the Aldermen who also took an oath to protect the taxpayers if they are

comfortable letting the situation stand. The calls that I have received in the past two days indicate that the people are in no mood to let the situation continue without accounting. Second, I will not allow the genuine fears of the employees of the Department of Welfare to go unaddressed. Individuals may disagree about how genuine their fears are. In fact, a recent national television report, which I watched last night, indicated that 8% of our nation's workforce experiences fear in the workplace. I must rely upon experts such as Tom Jordan, Christine Martinsen, the Chief of Police and others who feel that the fears of the employees were justified. We live in dangerous times. One look at the headlines in recent days and months confirms that the office can be a dangerous place when tensions are high. We ignore workplace fears at our own peril and I as Mayor cannot expose the City to liability by failing to address these fears. Much has been made of the legal peril the City has allegedly been placed in because Commissioner Lafond was assigned a different office for a transition period. The City places itself in greater jeopardy if it fails to ignore fears that experts say are real. Finally, I rejected the advice that some have given me over the past few days, such as don't make waves this will just go away. Some have urged me to strike a deal so that this issue will disappear without being resolved fully. It is intolerable to let a department work in fear or to allow an official to collect a salary without showing up for work. I did not run for Mayor to preserve the status quo that says the way to get along is to go along. The people of Manchester elected a new Mayor in 1999 to address the very issues that my actions on this matter have brought to the forefront. Throughout this whole process, I have been guided by my loyalty to my oath and my responsibility to the taxpayers and I have not violated either. So, here we are. Both sides inverted for battle. The *Union Leader* called it a "shoot out", an unfortunate choice of words but that is what many are expecting tonight. A clash between the Mayor and the Aldermen. You know there is an old African proverb that says when the elephants go to war it is the grass that loses. My concern tonight is that the people who most depend on the Welfare Department are the ones who will emerge the losers. As you listen to everything that will be said tonight, I want you to understand that I acted in what I believe was the best interest of everyone involved. I do offer an apology, a public apology to the Aldermen this evening who feel that they should have and perhaps could have been better informed regarding this. As we move forward, we certainly can address those concerns while indeed protecting the responsibility of your office and my responsibility as Mayor of the City. If in any way that has embarrassed you, I apologize to you and pledge that I will work with you to insure that there will not be a repeat of something of this nature in the future. I have embarked on a course of action that is motivated by my desire to address the needs of those whose interests might be forgotten as this Clash of the Titans materializes. I am convinced that I have done the right thing for Commissioner Lafond, the employees, the clients and the taxpayers who have a right to expect accountability. I present this message with all the sincerity I can muster. I offer you my pledge that we need to work together in moving forward in the

best interest of the City and I hope that we can put this chapter behind us as we work for a resolution of the concerns in that department. Presently we have talked to the Commissioner through her attorney and we offered, once again, a solution to this problem. The solution to me is as simple as the one we offered many months ago, simply to accept a professional mediator to come in to that office to work with the employees and the Commissioner and I am sure part of that will be separate, but again there will be experts in the field who can work through this to get all of the issues on the table. Finally, we would agree to abide by the recommendations of a professional in the field who can insure us that the safety and interest of the Commissioner and the employees is maintained and sustained. This is not an issue, in my view, of the Commissioner versus the employees. This is an issue of good people, good people, both the Commissioner and the employees, working to achieve common ground to move forward. That is all we have asked from Day 1. It was done quietly and it was done methodically behind the scenes. We reached the decision, which I stand by tonight and take responsibility for because I believe it was the right thing to do and the judge of whatever all of us do as elected officials is not of the popularity of an individual within these Chambers. The final judge of how we all act and do is with the citizens of this City who all of us were elected to serve. I am more concerned about that than anything else and I will continue to make decisions such as this that I feel are in the best interest of the City of Manchester and to all involved.

Alderman Vaillancourt stated once again I bring your attention to Rule 6 of the Board and ask you to voluntarily step down. You have given your opinion on a subject that is under debate and I assume you will give more opinions so I would ask that you voluntarily step down from the chair at this point.

Mayor Baines replied I have no problem with doing that.

Alderman Levasseur stated people have been asking me and many people have called me on this issue as to why you decided to stand instead of sit down with the rest of the Aldermen. Is that a style change or some sort of a...a lot of people are thinking that is because you have to be in control of everything?

Mayor Baines replied it is actually a tradition. It was always the tradition and the rule that the Mayor stand and I decided to return to that.

Alderman Wihby stated I read in the newspaper and it says that the Aldermen are being political on this and then I hear your speech today and if that is not political...if you are the taxpayer's friend and you are elected to an office to take care of the money and make sure that things are done right and everything else, why then if you knew on June 12 that

there was a problem with attendance of the Welfare Commissioner and it is February, why would you not have acted in eight months if you knew on June 12 and not even let two members of this Board know until October 20 that there was something going on. So, for four months you knew yourself and you didn't do a thing to solve that problem. You never even brought it to the attention of this Board and now you have the arrogance to stand in front of the taxpayer and say I am your friend and I found this and I acted on this eight months later when it should have been done on June 12 when you found out about it. You should have come to this Board and you should have told us that there were problems going on at the Welfare Department and that you wanted them corrected and this Board would have reacted. However, you waited until February. You acted upon it yourself. You took it upon yourself to make decisions that later on if we get sued this Board is going to have to make a decision on what to do and you tell us that we don't have any authority to overrule what you did because you are the Chief Executive Officer, but yet when it comes down to it and something has happened and the taxpayers get sued, the Aldermen are the ones who are going to have to react. I just don't think we should have been put in that position, your Honor. I think and I am not questioning the decision you made on whether or not she should have been allowed or not in there. I am questioning that you should have communicated that with this Board. I have been on this Board for 16 years and it has never just popped up when we read it in the newspaper and found out the day before that someone is going to get locked out of their office without having any communication ahead of time because of that. That is I guess where my frustrations are, your Honor. That you stand in front of us saying well in June I knew this happened and I didn't do anything until February and then try to say I am also taking care of these employees at the same time. There are two separate issues there. The first issue for the taxpayers should have been done right away.

Mayor Baines replied first of all I respect your opinion and your concerns. We did begin dealing with this...I am not sure of exact dates right now but this was not a new problem to the Mayor's Office. It was a problem that surfaced originally, I was told, under the previous Administration. As soon as I became aware of the problem we began to gather information and try to react to it and we methodically reacted to it over a period of time and we have the chronology put together to demonstrate that we did, in fact, do that. It was our understanding at that time that we were acting behind the scenes with the Commissioner to try to resolve the problems not knowing full well why she was absence. Perhaps there were legitimate reasons for her to be absence and I apologize that I can't look at you while I am responding but perhaps there were some legitimate reasons for her to be absent. I did not know at the time. There was not a process in place for her to submit timesheets. Again, that is the dispute about the department situation versus the elected official. We continued on a course to resolve the problems. We were confident that we were resolving the problems and up until the time that I involved you and

Alderman Cashin, I felt that these problems were solvable and there was no reason to involve the Board. That is why it happened in that scenario.

Alderman Wihby stated Mayor one of the comments you made in the prepared speech that you made was that you agreed that she does not have to participate in the review process, I guess, there was. That was basically I imagine based on the fact that you felt she was an elected official and didn't qualify for that but yet all of the sudden you have switched gears and even though before you felt she didn't have to participate now all of the sudden you are saying I don't care if you are an elected official you are a department now and this is what I want you to do. How did that come about?

Mayor Baines replied that is not totally true. Yes, I did agree with her on that but I said we have to go to the Board to get approval to disassociate her from that process. Throughout the process I received opinions that she was covered because she was taking the benefits and she was accumulating the sick leave and she was taking advantage of all of the other benefits in the City that in fact we did have the right to require her to account for her days out of office and those were the conversations that I was having with both Human Resources and the City Solicitor's Office so I felt the two were consistent because of the ambiguity of the City charter around the role of the Commissioner and the fact that it is a department. Mr. Clark has consistently advised me, right up to this evening, that she is subject to the directive of the Mayor of the City as a department head of the City. That is really not a conflict, that is an explanation of the dichotomy of those two issues.

Alderman Shea stated I did speak to the previous Mayor yesterday who indicated that he had no problem with Susan Lafond other than something that apparently he indicated very little...he complimented her on her work and he said that he had no problem with Susan Lafond. I am not quite sure why the present Mayor indicated that there were problems with the previous Mayor. I don't know where his information came from.

Mayor Baines stated in response to that, I have not had any problems per say other than getting her cooperation to fulfill this effort to provide mediation. I will reiterate over and over again that I don't agree with some of the comments that were made in public session. This is a good person. This is someone who has worked very hard in the City. I am not talking about her commitment to the poor. The previous Mayor, as I was told by Human Resources, could not get her cooperation to participate in the employee development program and, in fact, there is correspondence from the Mayor to her that I believe is in your packet basically explaining to her that she had to participate in the system. She was required...she refused to submit the information to him. I understand that there were efforts to get her to cooperate. He finally put it in writing and gave her a

deadline to do it. She failed to do it and, therefore, he also put her on notice that she would not get a merit increase because she would not participate in the evaluation system. That is the response to that. In terms of day-to-day workings with the Commissioner, I have not had the luxury of that because almost during my entire term in office she has not been in her office fulfilling those responsibilities so I have not had the luxury of having a day-to-day relationship with the Commissioner as I do with other department heads in the City.

Alderman Gatsas stated, Mayor, I have a little concern. I think I asked the question two weeks ago in regards to the most needy in the City and if they were being taken care of by the good employees at the Welfare Department and I believe what you said that evening was that they were well taken care of and there were no problems. Now, I think a couple of times tonight in your statements you indicated that maybe their concerns weren't being addressed and I would like some clarification on that.

Mayor Baines responded I appreciate the opportunity to clarify that. My comments that I was alluding to were that we were faced with possible disruptions of services to the needy in the Welfare Department. We were faced with a situation to be quite candid that if, in fact, the Commissioner had gone to work we had indications that a number of employees because of their documented concerns would not go back to work in that department, which would have created an issue for us. For example, either relocating over here or relocating all of the services of Welfare in a different place if, in fact, the Commissioner were to return to her place. That is what I made reference to. I can assert unequivocally that the services that have been provided by that department in working closely with the Deputy Commissioner, who I appointed as the acting department head, have been nothing short of exemplary during this time period. I believe that department is functioning as efficiently and effectively as it possibly can.

Alderman Gatsas stated those assumptions that you made were they because of indications that other people would have made to you. You made assumptions that the employees at the Welfare Department may not have been there to take care of the most needy. Are those assumptions that you made because of something that somebody said to you?

Mayor Baines replied yes.

Alderman Gatsas asked employees.

Mayor Baines answered yes. It was in direct conversation with the employees at a meeting attended by myself and Wayne Robinson and I am not sure if Christine was at

that meeting. The employees stated very clearly to me that if she comes into the office we are not coming into the office.

Alderman Gatsas asked when did that meeting take place.

Mayor Baines answered approximately two weeks ago.

Alderman Gatsas asked would that have been after the Aldermanic Board meeting.

Mayor Baines answered I don't recall the connection between that. Again, hearing that my goal was to make sure that did not happen and I was committed to making sure that did not happen. My hope was, again, to answer your question fully that we were able to create a situation with the Commissioner that I fully expected her to come back in our meeting and indicate to me that she had a rough period of time and whatever had been going on she felt that those issues were behind her and she was going to work with the staff and say let's bring Dr. Jerri King or whomever back in here and set-up some mediation sessions and I could go back to the staff and say we are going to work on that and do some other things to alleviate your concerns and, therefore, you both can be back in the same working environment. So, I was optimistic that that would occur.

Alderman Gatsas stated my concern is that I believe on January 23 I posed the question of what would happen if she went back to work. I think your response was pretty clear. Now if the meeting with the employees happened after that date then certainly I had a concern for those employees also. Now if you at that time assumed that she could have gone back and the employees had to be protected, then I guess we could have brought them to City Hall.

Mayor Baines replied that is true and as I recollect...I am trying to think through the dates and the times and I believe that meeting with the employees occurred after the Board meeting. That is my best recollection. It was about the time that we were notified that she was coming back to work and I believe that coincided after the meeting. I believe the meeting with the staff was after the Aldermanic meeting.

Alderman Clancy stated, your Honor, there have been allegations made against Ms. Lafond and we found out that she has been cleared. Now I also find out that the employees fear for their life to go back to work so why can't we send her back to work and have a policeman stand by.

Mayor Baines replied my view on that and again talking to the people involved the issues are related not only to concerns for the employees, but I would also offer concerns for the

Commissioner. There are concerns about the safety and welfare of all involved in that environment and it was my judgement, again based on consultation with those involved, that the best way to resolve matters like that is to have a professional mediator come in and resolve this. As you know, that is the strategy that is used in workplaces all over the country now because this is not a situation unique to Manchester. We felt that that needed to occur because if you just had a police officer there without going through that process in my view, again in talking to the professionals involved, the anxieties would simply increase.

Alderman Clancy stated most of the people who work in the Welfare Department have been working there for a number of years and all of the sudden things are surfacing because of one allegation.

Mayor Baines replied my feeling is that that is not totally accurate. In many discussions with employees and in working with Christine Martinsen from Human Resources, a number of these problems have been evolving over a period of time in terms of their relationship with the Commissioner. There was reluctance in my view of a lot of them to come forward for a variety of reasons. Some are simply not comfortable doing that. Others expressed concerns about their job security. Others expressed concerns about retaliation. I think an issue that provided a comfort is that Human Resources, especially Christine, was over working with them to help talk out and resolve the problems. I do not accept the notion that this is a one-employee cause or initiated concern. It is really a concern that permeates through the department. You even heard the Deputy Commissioner speak about that tonight. This is a long-term employee of the Commissioner and a personal friend of the Commissioner who worked with her prior to coming to the City. Those concerns go right through the organization at this time.

Alderman Clancy replied I find it very hard for a person who works there more than two or three years to sit there and take this aggravation and all of the sudden it surfaces.

Mayor Baines responded again it is hard to speak for the way individual employees feel and how individual employees express their concerns and frustrations. Again, that is in the mind and the heart of the individual and it is very hard for anyone to speak about why someone wouldn't come forward. However, in the field that I was in for many years a lot of things that happen to people they suppress for long periods of time for a variety of reasons and come out in certain situations, in times of trauma and stress or at a time when they feel comfortable expressing their fears and anxieties. Again, I am not a psychologist, however, I studied psychology. I think it is all part of the process of people feeling that they can express their concerns for others.

Alderman Hirschmann stated the Board of Mayor and Aldermen, normally we do act as one and I really honestly feel in my heart in this instance that there are 14 Aldermen sitting before everyone that had absolutely no input into the action or the course of action that was taken. Whether it be right or whether it be wrong, our Mayor with the advice of his professional staff acted without coming back to the Board and informing us of any action that was going to take place. For that, your Honor, I feel that the Board of Mayor and Aldermen as a group...our vote was stolen. We are dually elected, 14 people besides yourself, to come together as a body and to vote on important decisions facing the City. I understand that you have apologized and I don't know if you apologized for that action or for not telling us. I don't know exactly what your apology meant, but I still feel in my heart that in the future you must come back to the Board. We are policy makers. Policy makers set policy for executives to carry out or not to carry out. We were not granted that vote to tell the executive of the City what to do. In the last meeting that we had on January 23, the comments of employees and things and allegations, those allegations had been made way before January 23. On January 23 we had a meeting and you said when Alderman Gatsas asked a specific question "can she go to work" you said she could. I have an overhead of the record of the Board:

"Alderman Gatsas stated I would say that the department has been doing a good job because there are no recipient complaints. All I am saying is that for us to sit here and judge anybody as an elected official I don't think is right because we could all be in the same position and I don't think that today if we said we wanted to remove the Commissioner we don't have that ability. Certainly we need to protect those employees but she is an elected official and you can't remove her from that position. Is that true, Tom? Solicitor Tom Clark replied that is correct. Alderman Gatsas stated so we are sitting here debating an issue that if she walks in the door tomorrow and decides she is going to work we can't stop her. Now there is nothing that says those employees must stay there. All I am saying is we can't stop that individual as an elected official to not go to that office tomorrow. Mayor Baines replied you are absolutely correct."

The only reason I wanted to put that overhead up there, your Honor, is because that was our last official act as a body and we have been deprived, as a body from January 23 until February 6. A lot of information could have been given to this Board. You could have called a special meeting. You could have done a number of things. I just wanted to put that up there for the public's benefit so they could recollect what was said in public. If an important dilemma faced you from the 23rd of January until February 6, you should have come to the Board of Aldermen for a vote to inform us and tell us what had changed because on January 23 you weren't about to do anything. I am just going to end it right now. I have personally been kind of embarrassed as an elected official that I have not been informed and I did not have a vote. It was stolen from me. I am in a unique position in this circumstance. The Welfare Commissioner, herself, is one of my constituents, as well as a few of the employees of the Welfare Department who have called me and told me that they are my constituents as well. I have been in a funny

position, your Honor. In the future I am requesting that on all important decisions, you the Chief Executive, come back to the policy makers and ask us to make a policy that you can carry out. Thank you.

Mayor Baines replied I appreciate the concerns expressed by Alderman Hirschmann. Based upon the information that I had on January 23, that was the correct statement. As we talked about or we emphasized that the issue about whether...basically my point was that on that date the information was absolutely correct and I believed that we did not have any options to deal with that situation. When the option was presented by the City Solicitor, it was then that we began to explore that as a possible option to protect the ability of the commissioner to return to work, which I believe she always had the ability to do and to fulfill her statutory responsibilities. In regards to your comment about a vote being stolen, that is where I am going to have to respectfully disagree with you on this matter. Again, we reviewed in terms of who had the responsibility to make this decision, what was the appropriate forum to make the decision and under our Charter and the advice given to me by the City Solicitor's Office, this was my decision to make. I made the decision. I stand by the decision. Could we have done a better job in terms of providing information, I think I have already stated that. However, the decision still needs to be the decision of the Mayor in his capacity under our Charter. Based upon the analysis given to me by the City Solicitor, it has to be made by the Mayor. That is the only thing I would say in regards to that. I would just respectfully disagree with you on that.

Alderman Shea stated I was shocked to hear on the news at 6 PM that the Mayor was interviewed and he mentioned that the Aldermen have no authority in this matter. Then at 11 PM there was a second statement saying they have no say in this matter. I concur with Alderman Hirschmann and, your Honor you like to be quoted, you read a quote tonight and let me read you a quote, "It is unwise to be too sure of one's wisdom. It is healthy to be reminded that the strongest may weaken and the wisest may err." In lieu of that, Mr. Chairman, I would like to move that we show no confidence in the Mayor's decision in the Commissioner Lafond matter.

Alderman Hirschmann duly seconded the motion. Alderman Shea requested a roll call vote.

Alderman Levasseur stated I would like to continue with some other statements before this motion goes forward. I am very, very upset with Bob Baines' rambo politics...acting without the authority of the Board on such a very serious situation. I think Mayor Baines has opened the City up to a lawsuit. As a matter of fact, I have a document here that states that they are looking at suing the City for the interference by the Mayor. I wish we didn't go into non-public session because the political speech that you just came out with

was telling everybody everything that we didn't think was appropriate to be told about Susan Lafond and you just came out and said all of the allegations that we went over in non-public session for three and a half hours. The police found no criminal threatening. They found no criminal behavior on the part of Susan Lafond. Chief Driscoll did a fantastic job. He did what he was supposed to do and he did his investigation of Susan Lafond in the correct and appropriate manner, yet still you continue to completely harass this person based on mere allegations by employees who by looking at the record that I have seen, did have an axe to grind, specifically Mr. Porter. I was getting phone calls from Mr. Porter, 10-15 phone calls over the summer. I had never met the man. In my opinion, I thought he must have weighed 100 pounds and was 5' 1". When I saw him, he is 6' 4", 220 pounds. I really have a hard time thinking that Susan Lafond would intimidate this man in any way, shape or form, especially after the way he has come in front of this Board on many occasions and stared some of these Aldermen down. I am really upset with the fact that you sent out a letter to her attorney and you stated on February 1, 2001 "you are not to return to the Welfare Department at 510 Chestnut Street in Manchester until further written notice from me" meaning yourself and yourself only. This document was not given to us. It was not given to this Board. You did this on your own. You thought you had the authority to do so and you publicly humiliated and embarrassed a publicly elected City official who was on your transition team to make matters worse. I honestly believe that there is no way that Susan Lafond could ever go back to work at the Welfare Department. I think she has been humiliated to a point where I wouldn't go back to that Welfare Office. I think that her authority has been completely taken away by the sole actions of an individual by the name of Robert E. Baines whose dictatorial style is obvious to many people. Now, the most incredible thing about this whole thing is exactly how it transpired. At 2 PM, Robert Baines sent this letter to Susan Lafond's attorney saying you are not to return to the Welfare Department until further notice from me. At 3 PM, Robert E. Baines was at the *Union Leader* telling them the story. At 4 PM, James Connor, the attorney for Susan Lafond, hand delivered a letter to Mayor Robert E. Baines's office. Mayor Baines was not in his office since he was at the *Union Leader* telling them the story. In it he makes five statements. In one of them, "The City Charter states non-interference. The Board of Mayor and Aldermen shall act in all matters as a body and shall not seek individually to influence the official acts of any City officials or interfere in any way with the performance of such officers and their duties." That is when the Aldermen were called. I received a phone call at 5 PM. I hadn't been notified of any of this action. I did not know that the locks had been changed at the Welfare building, nor was Mrs. Lafond told that the locks had been changed even though she received a letter stating that she would not be able to return there. This is an embarrassing situation. It is rambo politics and I am completely offended by what you did. I think you have put this City in serious legal jeopardy by your actions and you, Sir, are the one to blame for this because you directed all of the other people to do your

bidding. I am extremely upset at the threat that you gave Mrs. Lafond. On August 8, 2000 a meeting was held with Mrs. Lafond, her attorney, Tom Clark, Ms. Martinsen and the Mayor.

Alderman Gatsas stated that is part of the package that I didn't want to discuss.

Alderman Levasseur replied it is chronology and it is in the record.

Alderman Gatsas responded no it is not in the record.

Alderman Levasseur stated I am going to continue reading this at my own jeopardy. At that meeting, the Mayor informed Mrs. Lafond that she would either work with his office and Human Resources for a proposed plan of action...

Chairman Cashin interjected hold on for a minute. Solicitor Clark, do you have a problem with this?

Alderman Levasseur stated this has everything to do with process. I am just reading Page 7 of August 8. This is not any of the confidential information or the letters written about Mrs. Lafond. I think it is very important that the public hear and understand where we were going and why this happened. It was Mayor Baines who wanted to take away that elected position and make it an appointed position and if I can continue I will read this statement. "At that meeting the Mayor informed Mrs. Lafond that she would either work with his office and Human Resources for a proposed plan of action or he would call for a management audit of Welfare or propose a resolution to change her position from elected to an appointed status." That, to me, is a threat. You either show up for work or I am going to change your elected status to an appointed status. That, to me, is absolutely incredible and that is what we have been going through since August. Mayor Baines wanted to make this an appointed position. He wanted to take away that elected position and he was looking for any way possible to make her look bad and he has done so to a point where I think you have put this City in very serious legal jeopardy and if I was the attorney for Susan Lafond I would be salivating for your actions.

Mayor Baines stated first of all the situation from my perspective is that the public humiliation was not something that I believe we share responsibility for. I believe that the Commissioner created the problem, she compounded the problem and she has refused to resolve the problem. This issue was very easily resolved. These are real problems by real people who felt and still feel these feelings. They cannot be ignored or dismissed in a manner in which you just dismissed them. This is not, in my view or the view of any who participated in the discussions, an axe to grind by any one individual. This was not an attempt at all to harass any people. The situation in the meeting that you described

was a meeting that was also attended as it says in this letter by Mr. Clark in which we were attempting along with her attorney to get her to recognize the seriousness of the problems that existed and some viable options for her to pursue. Her attorney was very emphatic to her, her previous attorney, that she needed to work with us under the directions that we had given to her to work with the people she agreed to work with to resolve the problem. She kept refusing to do so. At that point in time, I outlined to her that I was running out of options to deal with the situation. I outlined to her other viable options that I would be forced to pursue if she wouldn't simply take advantage of the trained facilitator and mediator that she had agreed to work with, that I would eventually have to report back to the Board because I hadn't reported back to the Board on this matter and at some point in time I told her that I thought the Board would grow impatient with the fact that I hadn't reported that to her. It was in that context that we outlined various options that we would pursue, including the Charter amendment and the option that was made available under State law. That, basically, is the situation we were talking to. There was nothing about any dictatorial style. I reject that categorically. There were people in the room who participated in that discussion, along with Christine, the City Solicitor and others and the conditions of those conversations were very cordial, they were very professional and they were very direct in the fact that the attorney representing Susan Lafond at the time turned to me and said to me very clearly Mayor you are going to have to be more specific with her. You are going to have to spell out exactly what you want her to do so that was the context of that meeting. I reject your categorization. I respect the fact that you made it, but it is simply false.

Alderman Levasseur responded well, your Honor, we can couch this any way you would like. We can put a blanket over it but the fact is that you used this Board to try to get your way. You tried to get this Board to change from an elected position to an appointed position and you made that a direct threat to her. You told her, if you don't work with me I am going to try to change this from an elected position to an appointed position in August, your Honor, and we were never even told about this meeting. We were never told about this scenario and all of this time we were sitting here working our tails off debating whether this should be an elected position or an appointed position. We were under the assumption that this was a money saving thing. We were under all kinds of different assumptions. You never once came out and told us that the reason why you wanted to change this was because...she either worked with you or she didn't. That is what this states and I don't see any reason why this was wrong because it was stated by the Human Resource Director. I find the fact that you were sitting here for six months and you put this thing on the agenda that you wanted to get rid of that elected position and make it an appointed position...now I can see where you were coming from. It was for a personal reason because she wasn't following your orders. As a publicly elected

official, your Honor, you don't fill out a timecard and neither should she have to and she doesn't have to.

Mayor Baines replied the reason that I recommended to move this to an appointed position, which I still think would have been to a classified employee position, is still very valid. In fact, if you recall, I outlined it at the meeting following a presentation by Human Resources that detailed all of this in terms of our frustration to get the cooperation. Understand that when we first embarked upon this there was no adversarial condition at all. The Commissioner acknowledged that there were problems to work on. She selected Christine Martinesen as someone she would work with. She said that Dr. Jerri King was also someone she would work with and then as we began to work through the process she refused to work with those people. That was the context of the meeting. It was not as you characterized it. I appreciate the fact that you might have an opinion on it, but your opinion is wrong because that is not what happened at that meeting.

Alderman Vaillancourt stated would that the world were black and white and there would be somebody all right and somebody all wrong in this scenario we find ourselves in tonight but sadly that is not the case. Would also that I didn't have to spend five hours today reading this confidential document and I am treading on careful ground because I don't want to offend my colleague from Ward 2 by referring to it, but in totality we can't really discuss this matter unless we somehow broach that. Would that everybody were perfect. Perhaps I wasn't perfect tonight when I voted to go into what I really don't like to do, go into executive session, however, I do think this was a personnel matter. It does appear, however, that the Mayor likes to let certain things come out. Things that reflect badly upon other people. So perhaps it would be appropriate at this time to move that this entire matter, this entire confidential matter be...the seal of confidentiality be removed. In the cover letter today there is a sentence that reads "at this point I am asking that you treat these documents in a confidential manner." Perhaps it is appropriate that we remove the seal of confidentiality at this point so that we can discuss this entire body of documentation. That is the only way we will ever get to what goes on and Susan Lafond will have her justice because I believe she has been maligned here today. Maligned by her employees. I don't, for a minute, think that she is perfect just like I don't think for a minute that any of us here are perfect. However, I concur with my colleague from Ward 3 that the biggest villain of this piece, well there are three of them perhaps – Susan Lafond certainly is a demanding employer and I am not sure if that is good or bad overall because you know the greatest football coach probably in the history of football was known as a very demanding employer, Vince Lombardi. He got results. He was probably loved and hated by the people who worked for him and I think that Susan Lafond got results for all of those years as a Welfare Commissioner and for her to be treated like this here tonight with the employees who spoke about her is a disgrace. I

am reminded of a picture I saw on the Berlin wall, which had the bloody Russian Dictator Breshnev kissing the bloody East German Dictator Erik Honniker with a caption "God Save Me From This Deadly Love." Well, God save Susan Lafond from her friends who want to say how happy they were to support her and have her on their transition team and from her employees who said they stood by her until there was a feeding frenzy and the sharks smelled blood in the water. She does not deserve this. I am not saying she is perfect. She is demanding, but I do believe if the seal from this confidentiality were removed we would find that there was one employee...this is a very stressful position working in Welfare and he can say that Susan Lafond contributed to the stress, but I think you will find if the seal were removed from this there was another contributory factor which caused this employee to go off the end and then he tried to get Susan Lafond calling her a tyrant and such things as that and when he couldn't do that he ended up trying to have the police involved and you may recall the people of Manchester may recall that I spoke out against the police becoming involved in this last May in what was termed a criminal investigation. I thought that was beyond the pail. I think that is what set this whole thing down the slippery slope in motion. If you put yourself in this woman's position and I think you ought to have the decency to do that, this is what made her perhaps a little more upset than usual. This is what made her dig her heels in. You know it is time to stop digging our heels in...I never thought the Mayor would go to this extreme because I thought after all of the publicity that this had generated in the last couple of months she would have had the opportunity, the simple human decency to come back and having learned from her mistakes started over again with her employees. They should have given her that opportunity and I don't want to prejudge and say she was incapable of doing that, but instead of being treated like a decent human being would have been treated, what happened to her? She was locked out of her office. There were policemen waiting to arrest her if she had the audacity to go back into her office. This never would have happened if we had used the wisdom of a body, 14 people, not 14 individuals but 14 people acting as a body. This never would have happened if the Mayor had not taken a totalitarian spirit upon himself. They talk about the Welfare Commissioner being a tyrant? He has shown that he is a tyrant and he has poisoned the well sadly as Alderman Levasseur said to the point where we can never remedy the reputation of this good official. I think it was Raymond Donovan, the former Labor Commissioner, who said who will give me back my good name. Who will give this woman back her good name? She deserves it. She deserves a chance to make reparation and I don't for a minute think that all of these people in the City offices who signed on with the Mayor really felt that this woman was a physical threat to the employees in the Welfare Department. I feel that they signed on board because they wanted to back the Mayor by forcing her into this regiment before she could come back to work. I don't think she should have been forced into this. I think with a little understanding she and her employees could have worked it out in her way. This is a tragedy and I am sorry to

say that I have lost all respect for the Mayor of the City by carrying this on in this manner and his apology tonight does nothing for me because he doesn't for a minute think that he should have acted differently. I thin the City Solicitor is wrong with the advice he gave them so I will make a motion later as to how we can remedy this situation. Right now I had to say that. God save me from this deadly love.

Alderman O'Neil stated we have heard tonight involvement by the Mayor's Office, Human Resources, the Employee Assistance Program, the Police Department and the City Solicitor but we have heard of no involvement from the Board of Aldermen. As a matter of fact, we had a package delivered to us just today with information. It is the feeling of some that the role of Aldermen is only to set policy, but yet this Board has had this problem dropped in our lap so it is clear to me anyway that we do more than set policy. Your Honor, I do appreciate your apology to the Board and I hope that we never have to have this discussion again. We are partners in City government. We debated elected versus appointed. We debated the role of the Board of Aldermen, but we have failed to address the problem at the City Welfare Department and tonight I haven't heard a solution. It continues to go on. Let's address the problem.

Alderman Shea stated I just wanted to mention that the Mayor mentioned that the counselor for Susan Lafond made certain suggestions and so forth which apparently either the Mayor made them or they were made and he agreed with them and I want to quote from a letter that he sent to the Mayor on February 1. Under number 4, he has indicated to the Mayor and these are the words, "You have demonstrated a bias toward Susan Lafond by your unsuccessful efforts to change the Charter and make the position of the Welfare Commissioner an appointed position and in fairness you should remove yourself and discontinue your campaign against Susan Lafond. If you continue to interfere with Susan Lafond as an elected official, we will seek legal regress including reasonable attorney's fees and damages. Susan Lafond and I shall be at the Welfare Office at 510 Chestnut Street on February 2 at 10 AM where she shall resume her duties as Manchester's duly elected Welfare Commissioner." The whole problem was that the Mayor acted in this case...and I have sympathy for the workers, we are not heartless. We understand that you are City workers, but the Mayor blundered this so badly that instead of saying something to the effect let her go back and let Red Robidas stay there and let's have some supervision or interaction he said no. Now what if we said to the Mayor tomorrow you can't come back to your office and he says to us who can prevent me I am an elected official? Well, she is an elected official. She should have been at least entitled to go back to where her place of employment is. If I am a principal of West High School and the Superintendent tells me go over to Parkside and the Assistant Superintendent will run it and you can have access to her, what kind of a railroad are we running as Mr. Cashin said. We are all mixed up here. She should be entitled to go back to her office

and stay there and if there is some security problem, those security problems should have been addressed. The horse is out of the barn now. This is a terrible situation and I think that the only way we are going to get it resolved is by going along with my motion and doing something beyond that.

Alderman Gatsas asked, Mr. Hobson, did you consider the Welfare Department a workplace at risk.

Mr. Hobson answered yes.

Alderman Gatsas stated I know that you participated in the Manchester Transit Authority discussions with the employees. Did you think that that workplace was at risk?

Mr. Hobson replied yes, but not in the same way.

Alderman Gatsas asked would you think that a workplace at risk is any different from one place to another. Did you publicly...publicly we sat here as a Board and listened to probably an hour and a half of employees testimony that said that they were at risk with management. They thought they were being treated unfairly. This was back in July. They thought that they were at risk and there were things that could happen to them at the workplace. You were here participating in that discussion, I believe. You didn't think that was a workplace at risk?

Mr. Hobson replied that is not what I said. I said that their issues were different and if you would like I can elaborate on why I think so. For one thing, the Manchester Transit Authority is not classified and I know that you know all of what I am about to say but just for the record...

Alderman Gatsas interjected I will let you put it on the record because I will certainly have a follow-up.

Mr. Hobson stated the Manchester Transit Authority is not a City department. The employees are not City classified employees. Therefore, as the HR Director I am limited in what my role could be or should be. I have consulted with the...I am not sure what his title is, the General Manager of the Transit Authority. Members of my staff have worked with him. We had a conference call earlier this week. We have another meeting taking place later this week. He hired a consultant. That consultant has brought forth some recommendations and we are going to go over those recommendations. With these particular employees, the Mayor as my acting supervisor directed me to do certain things and I brought back items that I thought were important and critical and I didn't do those on my own whim as well. I had people from my staff involved. Our purpose was to

interact with those folks on a consulting basis and do everything that the Board and the Mayor feels that I should do. With the Welfare Department it is my obligation, by ordinance, to work directly with those people. They are City classified employees.

Alderman Gatsas replied I think that human life, whether they are classified employees or not is as important and if you thought that that workplace for one second was at risk and you as a Human Resources Director who is supposed to have the employees' best interest at heart, certainly should have made a recommendation because in July the Mayor participated in that meeting and I know the directive that he gave you and I certainly could find it in the record told you to do whatever it takes to get it done. That is exactly what was said in these chambers.

Mr. Hobson asked are you referring to the MTA.

Alderman Gatsas answered I am referring to the MTA. That is exactly what he told you so the directive that I hear...are you saying that he changed that at a later date.

Mr. Hobson replied I don't feel and I respect what you are trying to say but I don't feel that the two are equal in the scope and responsibility of what my job is supposed to be.

Alderman Gatsas responded I am not looking for your scope. I am looking for your professional opinion. Your professional opinion.

Mr. Hobson replied I am concerned about people who work in Nike factories in Southeast Asia. If there are injustices anywhere, as a human being I am concerned. I cannot...

Alderman Gatsas interjected let's not go to the Nike factory because you can't control that.

Mr. Hobson replied and I can't necessarily...that is my point. I can't necessarily, Alderman, control what the General Manager of the Manchester Transit Authority does and does not do. However, in his defense and he is not here, I believe that we are making some good inroads at the Transit Authority with their management and that has been taking place over the past couple of weeks and I look forward to meeting with him in the next couple of days.

Alderman Gatsas stated my concern is that the abrupt difference between the January 23 meeting when we talked about employee's welfare, that all of the sudden it was a workplace situation that was volatile. In July, nobody brought that up. They weren't concerned that there were 50 people in here talking about what would happen to them

when they went back to work the next day. None of that ever appeared and here they are driving buses with kids on them. Now why is that any different? Why wasn't that looked at in the same light as the protection of the Welfare people? Why was it different? Why didn't we tell the Commissioners that this, the Mayor here appoints, and I believe we have to vote on. Now they have control over those people and if you thought it was a volatile situation and you told that to the Mayor I am sure he could have made five phone calls to five Commissioners and said you know you need to do something you better change the locks.

Mr. Hobson responded the last point that I would make is that the Manchester Transit Authority is a union and contracted group.

Alderman Gatsas replied Mrs. Lafond is a publicly elected official. Let's not try and weave a different stroke.

Mr. Hobson stated well remember earlier I said to you that I had some points to make about the Transit Authority. The Transit Authority employees have the right of a contract. They have the right of the PELRB. The people in the Welfare Department have none of those rights. They have the right to go to the Department of Labor. They have the right to go to the...

Alderman Gatsas asked are you saying they called the Department of Labor. For what reason?

Mr. Hobson answered the employees from the Welfare Department went to the Department of Labor to express their concerns about what was taking place and they met with some investigators and those investigators informed them...

Alderman Gatsas interjected workplace safety. Is that what you are talking about?

Mr. Hobson replied they brought a number of issues to the Department of Labor.

Alderman Gatsas asked what were they.

Mr. Hobson answered I would have to refer to the documents that nobody wants to refer to.

Alderman Gatsas replied tell me from your best recollection. I don't want to hear what were they told. What were the employees told? Did you participate in that?

Mr. Hobson answered no.

Alderman Gatsas asked what were they told.

Mr. Hobson answered according to the report that came from the Department of Labor Commissioner, Mr. Casey, they were told that they needed to bring their workplace safety issues to the Police Department, some of them had. I believe that he also told them that the scope of the authority of the Department of Labor in this regard had more to do with wage and hour issues and so, therefore, they could about the document. Why would they be calling about a workplace safety issue to the Department of Labor?

Mr. Hobson responded I believe they were trying to get advice.

Alderman Gatsas asked the Department of Labor sent investigators down.

Mr. Hobson answered yes, they did.

Alderman Gatsas asked go to the Commission of Human Rights, I believe.

Alderman Gatsas asked so they actually sent investigators, inspectors down. Usually they give you that information over the phone.

Mr. Hobson answered to the best of my knowledge, two inspectors were sent to the Welfare Department.

Alderman Lopez stated, your Honor, this process and as a Charter Commissioner as well as yourself I believe as the body here does that in certain situations, although the Chief Executive Officer does the daily operations of all departments, I think when things come up like this the Aldermen have to be informed. They might not agree with your decision and they might direct you, as Alderman Hirschmann has indicated. I also feel that this body could direct a full-time police officer to walk these halls if we wanted to and you would have to carry that out. I am very strong about that in the Charter. I am also very strong as the Chairman of the Human Resources Committee that I was not included in this process. When things happen, I believe that the political people who are involved must be taken in. I believe that the Aldermen have to be informed and if that has to include you calling 14 Aldermen and telling them what is going on, I surely believe that should be done. I also believe that anybody going to work in this City should work in a comfortable position. They might not like their boss, but they should not be fearful of going to work. My last job was in the Post Office and I never had a more stressful job in 20 years. There are procedures and there are professionals out there to help us. Tonight you made a tremendous statement. You made an apology and I ask you for the record

henceforth if situations like this do come up do you intend to include this body in making your decision?

Mayor Baines replied I appreciate your comments and we have had a chance to discuss those. There are certain decisions that in my understanding of both the Charter and my responsibility as Mayor that are mine to make. I still believe that this was my decision to make and I stand by that as I have said repeatedly in both public and private conversations. I think in retrospect as things move along with this as I said during my comments I think the role of the Board could be brought to bear as advisors on situations. I think that has been said over and over again. I think there are always going to be, when you have a Mayor, Chief Executive Officer, there is going to be a difference of opinion in terms of where the lines of authority are. I think we need to respect that. We also have to respect that occasionally we are going to disagree and this is one of those situations. However, the wisdom of many and I forget who was quoting who here tonight...I think it was Alderman Shea was quoting, has a lot of merit. I think we can all do something and I pledge as I said during my statement to do more in that regard to make sure...I was joking with an Alderman earlier that I am going to start calling him at least twice a day. I think we can learn from this. We can move forward. However, I do stand by that on matters such as this, this is why I was elected. It is the oath I took and I made the right decisions for the right reasons and I would make that decision again. However, I would perhaps reach out for some more advice, but I still would have made the decision at the end.

Alderman Levasseur stated I sit on the MTA Sub-Committee and I can honestly say that if there was ever a group a people that were under stress it was the MTA and we never heard from Mayor Baines on that issue. He didn't have enough time to deal with that issue, but he had a lot of time to deal with this other issue with the Welfare Department. I have one question that I need to ask the Mayor and then I think I can move on from this. Mayor Baines, what gave you the right to go to the *Union Leader* before telling the Aldermen what you were going to tell the press that Mrs. Lafond was not to be allowed to show up at her office on Friday? That is the problem that I have. You were at the *Union Leader* at 3 PM and it has been corroborated by *Union Leader* officials. You wrote this letter and hand delivered it to Mrs. Lafond's lawyer at 2 PM and you were at the *Union Leader* at 3 PM and after you were served in hand by the attorney for Susan Lafond at 4 PM, that is when the Aldermen started getting phone calls. What gives you the right to go to the *Union Leader* and tell this story at the *Union Leader* while you are supposed to be working at City Hall and not tell the Aldermen? That is the problem that these Aldermen have.

Mayor Baines responded I appreciate that concern. First of all, I have a right to be at the *Union Leader* if I decide to be at the *Union Leader*. Secondly, as things began to unfold that particular day and I can't remember the exact time but perhaps Alderman Wihby can, we called Alderman Wihby around noontime. We tried to set-up a conference call with Alderman Wihby at 1:30 PM. We made a call to get Alderman Cashin into the office to review the situation with him. We were unsuccessful at that particular point in time to make contact with either individual to brief them on the situation. We were then getting calls from the media about it and I felt it was important to sit down with them to give them the background on it and then we began to make the calls afterwards. That is what we did. Could we have done it differently? Absolutely but that is what we did.

Hindsight is great. I think I have already indicated to you that in the process we perhaps should have done some things differently but that is what happened. We felt that it was an appropriate response. Finally, I want to talk about the MTA. I did personally get involved in the MTA issue. I personally have had discussions with the management of the MTA. That management has been repeatedly beat up in these chambers. There have been calls by Aldermen to have the General Manager and Assistant down there fired and removed by Aldermen who are not also expressing outrage about this other situation. I have gone down there and I have met with the Commissioners. I went to a meeting with the Commissioner attended by the president of the union to talk about how to work on resolving the issues in that office down there. I did, as Alderman Gatsas said, direct Mr. Hobson to get involved and provide resources to the MTA. So, any assertion that we haven't given attention to the MTA is without foundation. I am committed to working with the MTA within the constraints that we obviously have because it is not a City department. I also talk to Mr. Clay when I go down and get gasoline for my car about issues related to the situation down there so let's...we can have legitimate disagreements about the process and the procedure that was followed. I have acknowledged that and I am willing to do that and I am willing to move forward. The issue is an issue of fairness. The issue is whose responsibility does something belong to. We disagree about things like that but we can move forward and learn from our mistakes and I am committed to doing that.

Alderman Levasseur stated I want to say that besides Alderman Wihby and Alderman Cashin, there are 12 other Aldermen here and you have never once picked up the phone to call this Alderman to tell him anything in advance. We always have to hear stuff from either the paper or by accident. You have constantly kept a lot of these Aldermen out of the loop and you have never called me just to ask me for my opinion or to tell me anything. If I have called you, you have had your secretary call me back. You won't even pick up the phone to call us personally and I think that management style shows a lot of lack of respect for the other Aldermen on this Board and I only live 110 feet away from City Hall and never once have you come and told us anything. I don't like finding

this stuff out from the press and I don't think we should have to find out from the *Union Leader* or Channel 9 that you made the move that you did. I hope that you don't ever do it again. Please don't do this again. Start calling the other Aldermen and get us in the loop, Mayor.

Mayor Baines responded at a certain point in time you are going to say and do whatever you want to do...

Alderman Levasseur interjected you say and do what you want to do.

Chairman Cashin stated Alderman you are out of order. Let him speak.

Mayor Baines stated the essence of the Office of Mayor is very, very specific. In terms of who calls who, I don't think that is a decision that I can make. I do call Aldermen. I do have conversations with them. Aldermen do call me. Aldermen visit the office and come in in the morning, afternoon or evening. Aldermen call me at home. I call Aldermen from home. There is a nature of...some relationships, it is the basis of relationships with certain Aldermen and the adversarial nature that exists with certain Aldermen as well. I don't apologize. I was elected Mayor of the City by the people of the City and I will continue to represent their best interests the best I can do. Can I learn and do better? Absolutely as all of us can and all of us falter from time to time and in retrospect you look back and you are not faced with having the responsibility that goes along with the opinion it makes a little bit of a difference. I definitely reject the lecturing nature of that in terms of you expect me to do what and how I am supposed to do it. That is a decision that I will make.

Alderman Levasseur stated that is right. You don't like to be talked to or told anything.

Chairman Cashin replied Alderman, I will ask you to leave. Mayor, I have to ask you a question before we wrap this up. You mentioned Alderman Wihby and myself that you tried to get in touch with. Now, the decision to lock her out had already been made prior to you trying to get in touch with us, is that fair?

Mayor Baines responded first of all, I don't agree with your characterization of the locking out, but yes the decision had been made to work on a transition of her coming back to the office and I believe it was appropriate to be made in the context that we made it and we discussed that.

Chairman Cashin stated my point is that the decision had been made prior to you calling. We were not called for our advice our counsel or anything else. You just called to tell us that you made that decision.

Alderman Vaillancourt stated this is on the same topic. I would just like to say that the irony is so incredibly sweet that the Mayor in his last comments to Alderman Levasseur was talking about an adversarial relationship that appears to exist on this Board and how he is not going to apologize for that. It seems to be the same situation with the Welfare Commissioner doesn't it. Sweet irony. Mr. Chairman, yesterday I sent you a letter. According to Section 8.15(D) of the Manchester Charter, the Chairman of the Board of Aldermen shall receive any allegations of violations alleged to involve the Mayor. Normally such allegations would go to the Mayor, but when the Mayor is involved they go to the Chairman of the Board so I addressed this letter to you yesterday, February 5. Copies of it have gone to all of my colleagues and I also, as I believe should also be done, have made it available to the media. I don't believe in government in secrecy. I contend that the Mayor of the City of Manchester has possibly broken the City Charter in two aspects. One is Section 9.03 (G) Non-Interference, "The Board of Mayor and Aldermen, the various boards and commissions and the Board of School Committee shall act in all matters as a body and shall not seek individually Mayor Baines replied that is correct because I believe that was my decision to make.

Chairman Cashin called for a vote on the motion of no confidence in the Mayor's decision regarding the Welfare Commissioner. Alderman Shea requested a roll call vote.

Aldermen Shea, Vaillancourt, Cashin, Thibault, Hirschmann, Wihby, Gatsas, Levasseur, Sysyn, Clancy, and Pinard voted yea. Aldermen O'Neil and Lopez voted nay. The motion carried.

Alderman Vaillancourt referred to Section 9.03 of the City Charter noting "...The motion to influence the official acts of any City official or to direct or to request except in writing the appointment or removal of any such person to or from office or to interfere in any way with the performance by such officers of their duties." Alderman Vaillancourt stated I believe the Mayor has violated the Charter 9.03 (G). I also believe he as violated 2.08, the Powers and Duties of the Mayor, which says that "the Mayor shall not in the exercise of his powers decrease the policy making power of the Aldermen". Then it refers back to the policies of the Aldermen under Section 2.03, "the Board of Aldermen shall act as a policy making and legislative body of the City." Now under Section 8.15 (B), Mr. Chairman, after referring this to you as you would be asked to refer this to the chief legal officer of the City but I am going to make a motion that we skip that section because the chief legal officer of the City obviously has been involved with advising the Mayor in acts that I believe are in violation of the Charter. I will move that my two alleged violations by the Mayor be referred to the County Attorney.

Alderman Shea duly seconded the motion. Alderman Hirschmann requested a roll call.

Aldermen Hirschmann and Wihby voted yea...

Mayor Baines stated point of order. Doesn't the county attorney deal with criminal matters.

Chairman Cashin stated unless Solicitor Clark has a problem with it, I believe that an Alderman has a right to send it wherever he wants.

Solicitor Clark stated for the most part the county attorney deals with criminal matters, but he also deals with civil matters of county government.

Chairman Cashin asked is this motion in order.

Solicitor Clark answered the motion is in contradiction of the Charter. The Charter says that it comes to me. If you want to refer it to both places, you are welcome to but the Charter does say that it comes to me.

Alderman Vaillancourt amended the motion to refer the two alleged Charter violations to both the county attorney and the City Solicitor for opinions.

Alderman Wihby asked is Solicitor Clark saying that it can't go anywhere other than here.

Solicitor Clark answered this Board can send things wherever it wants to.

Alderman Wihby asked why are we sending it to you.

Solicitor Clark answered because the Charter says it comes to me. You don't have to vote to send it to me. The Chairman has to give it to me per the Charter.

Alderman Wihby stated haven't you recommended when this has happened before that the Mayor send it someplace else and not to you. Wasn't that one of your recommendations once?

Solicitor Clark replied no. The Mayor on his own felt that he needed to go and get outside legal help but I didn't recommend it.

Alderman Wihby asked but you didn't have a problem with it, right.

Solicitor Clark answered no. As I said, this Board can send things to any place they want.

Alderman Wihby asked did you tell him he should send it to you too at the time.

Solicitor Clark answered I was giving him legal advice, yes.

Alderman Wihby asked so you told him that he should send it to you and then...

Solicitor Clark interjected I told him that he was free to seek outside legal counsel if he wished to but that I would also be looking at it.

The roll call vote continued. Aldermen Gatsas, Levasseur, Sysyn, Clancy, Pinard, Shea, Vaillancourt and Cashin voted yea. Aldermen O'Neil and Lopez voted nay. The motion carried.

Alderman Levasseur stated because of the circumstances that have surrounded this evening and because of the lateness of the hour, may I make a motion to adjourn and put the other items on the next meeting or is that not appropriate.

The Aldermen concluded that they would stay and finish the agenda.

Alderman Vaillancourt stated I share Alderman O'Neil's concerns that we really haven't addressed the issue of going into the future. I think it is nice to beat a horse, but I think perhaps that we should move into the future so with some trepidation, I would move that the Board direct that Welfare Commissioner Lafond be allowed to return to her office tomorrow and set-up her own schedule on how she will deal with the communication with her employees.

Chairman Cashin asked, Solicitor Clark, do you agree with that.

Solicitor Clark answered in my opinion, the Mayor had the legal right to make the decision he made based upon the Charter. He has the executive and administrative affairs of the City vested in him. I believe it is his decision and I don't believe this Board has the authority to overrule it.

Alderman Vaillancourt replied I am not overruling it. I am saying that tomorrow she should go back. There is no overruling. It is a totally new day.

Alderman Shea duly seconded the motion.

Alderman Thibault stated I believe that this Board has already brought up the fact that there are problems at the Welfare Department. Now I don't disagree with the motion that was just made, however, I would like to set something in motion that we are going to be looking into this problem. That is my only concern with it.

Alderman Vaillancourt replied I would always accept a friendly amendment.

Alderman Thibault moved to amend the motion to set-up a method of checking into the problems at the Welfare Department.

Alderman Hirschmann stated if, in fact, the Commissioner is allowed in the morning to go to her duly elected workplace, I would make the amendment to that motion that our City security manager, Red Robidas, be stationed at that facility to insure the safety of all the people that feel threatened in any way, shape or form and to make a report back to this Board as a body if, in fact, there are any future intimidation or allegations or whatever it is going to be. Even if Sue Lafond has any intimidations toward her. I would make that as an amendment that Red Robidas report to that facility and work out of that facility to guarantee the employees' safety. Alderman Clancy duly seconded the motion.

Chairman Cashin stated the motion is that the Welfare Commissioner return to her duties tomorrow and also you are recommending that Mr. Robidas be there also. The City Solicitor is saying that we don't have the authority to do this. Is that what you are saying?

Solicitor Clark replied in my opinion, you do not have the authority.

Alderman Hirschmann stated you said it to departments, Sir.

Solicitor Clark replied it is under the jurisdiction of the Mayor. The Mayor is the Executive Officer of this City.

Alderman Hirschmann asked what is Susan Lafond.

Solicitor Clark answered she is an elected official who oversees a department.

Alderman Hirschmann stated you are interfering with the Commissioner's ability to go into her workplace. We are assisting her in quelling any type of a problem as she gets into her workplace, Sir.

Solicitor Clark replied the action that the Mayor took does not prohibit her from doing her job.

Alderman Hirschmann stated she could not get into the building, Sir. She was told by Police that if she went into the building she would be arrested.

Solicitor Clark replied she was given another place of employment to work at.

Alderman Hirschmann responded that is not her place of employment.

Mayor Baines stated first of all I am very concerned that you are deliberating on something of this nature in which you do not have the authority to act. It is clear to me that there is a dangerous situation at the Welfare Office, which has been very well explained, delineated and supported by the professionals. We have on the table with her attorney as we speak a proposal for her to agree to the services of a professional mediator to help insure that this is a safe and secure workplace for all involved and we will continue to pursue that under my authority as Mayor and we will not and cannot allow that situation to be commingled until we have an opportunity to professionally address that situation. That is under the authority of the Mayor. We have acted prudently and we have acted fairly and we will continue to assert that.

Alderman Gatsas asked can you tell me, your Honor, or maybe Mr. Clark can tell me what changed the two positions from January 23 when you both agreed that she was an elected official. Show me the documentation that changed your opinion from that night a mere two weeks ago and how we got to today. Can somebody show me the documentation? I have asked for it now for the last four and a half weeks and still have not seen it. Somebody needs to show me in writing where somebody's thought process went from January 23 to February 2 and how that changed.

Solicitor Clark answered there is no documentation, Alderman. It is in the Charter. I have stressed to the Mayor that he cannot prevent Susan Lafond from coming back to work and doing her job. That doesn't mean that she has to do it at the Welfare Department. He is the Mayor and he has administrative powers in the City and he has to decide on the safety of all involved.

Alderman Gatsas asked do we have jurisdiction if she overspends her budget as a Board.

Solicitor Clark answered it depends on which portion of it you are talking about. If you are talking about the general administration of her office, you do have some authority over that. If you are talking about her fulfilling her statutory requirements that the Federal and State governments pass, no. She has to pay those amounts.

Alderman Gatsas asked is the lease that we are paying under those statutory amounts.

Solicitor Clark answered I don't know where the lease payments are coming from. I believe it is part of the general operating budget.

Mr. Clougherty stated it is part of the general operating budget and I would suspect part of the statutory control.

Alderman Gatsas asked so we can't control her overspending to do her job, but we can keep her from the facility that allows her to do her job. How did that change from January 23 to today? I asked this question in the Human Resource Committee. I asked Mr. Arnold. I asked it at the full Board. I keep getting the same answer, but nobody has given me any documentation as to why that answer has changed since January 23. Is this just somebody's opinion or is there documentation to back-up that opinion?

Solicitor Clark answered it is my opinion based on review of the Charter and the statutes. The Mayor has this authority.

Alderman Gatsas asked so your opinion changed since January 23, Tom.

Solicitor Clark answered I don't believe I gave you an opinion on January 23.

Alderman Gatsas replied I believe you did.

Alderman Vaillancourt stated if it would make the City Solicitor happier, maybe we should word my motion...you would agree Mr. Solicitor that the Board of Mayor and Aldermen shall act as the policy making body for City government.

Solicitor Clark replied that is what the Charter says.

Alderman Vaillancourt asked would you be happy if we were to say that the Board of Mayor and Aldermen have a policy that the Welfare Commissioner shall work out of the office that she previously worked out of. Would that not be a proper policy?

Solicitor Clark answered I do not believe it would be at this point because the Mayor has made a decision based upon his authority and the Charter says that your policies cannot reduce the authority of the Mayor.

Alderman Vaillancourt replied the Charter says that the Mayor cannot reduce the authority of the Aldermen doesn't it. If we make that policy, he would be wouldn't he?

Solicitor Clark responded I don't believe that would be a proper policy.

Alderman Wihby asked, your Honor, if the vote is 10-2 like we saw to have her go back to work, are you going to honor that.

Mayor Baines answered absolutely not.

Alderman Wihby asked so why are we even voting. Why are we doing this?

Mayor Baines replied I think the responsible thing for us to do, the reasonable and prudent thing to do if you were to take a vote would be to support the proposal that is on the table right now for the Commissioner to take advantage of a professional mediator whom she could chose, along with the City. The situation would be that she and her attorney could jointly select a person who would work with the Commissioner and with the employees and we would all agree to abide by the decision of this professional person that would be trained in this area of employee relationships and mediation of when it would be appropriate for the two entities, the employees and the Commissioner, to be in the same environment. That is very viable. It is very forceful. It is very proactive and it is the responsible thing to do and I would ask you to get behind a motion that would enforce that and then we could get this situation resolved to your satisfaction, to my satisfaction, the employees and the Commissioner. I would urge you to do that instead.

Alderman Shea stated Susan Lafond, according to the Mayor, is making \$70,000 a year. She is home now. She is still getting paid for being at home. I don't really understand how we can't resolve the problem. In other words, I see no threat to any employee if there is security there. I don't understand why the Mayor insists on his particular viewpoint. It is his way or the highway. That is the point. I mean we voted tonight and he got clobbered voting wise. We could vote next week again and he will get clobbered again on this issue and he will still insist that it is his way or the highway. I don't understand his mentality. Certainly he wants to be understanding. He wants Aldermen to work together. This Board is going to be like the Welfare Department pretty soon. He is driving a wedge between us because he is uncompromising in his particular attitude. I can't go on beyond the point of he can't see the message here. He is going to do it his way and he is going to get back at anyone here tonight that voted against him one way or the other.

Chairman Cashin stated I don't know why the Mayor hasn't mentioned this because he brought up the facilitator and all of that but I met with the Mayor yesterday and Tom Clark. It was my recommendation and Tom can stop me if he wants to that Tom Clark and Susan Lafond's attorney sit down and work this out and come up with a facilitator

that is mutually agreeable and let her go back into her office and work it out with her employees and go from there. I recommended that yesterday to the Mayor and to Tom Clark. In this case, it is not his way or the highway because I recommended it and I think the Mayor will have to agree with that. He didn't mention it and I don't know why and probably I should have just let it go the way it was going but I am going to ask this Board to please rescind this motion that you have here. Give us a week and let us see if we can't work it out and if it can't be worked out this way then we can always come back and you guys can do whatever you would like to do.

Alderman Hirschmann stated I made the second, Chairman Cashin, and if you had just shared that information with us earlier...I mean we are in the heat of battle here making motions and seconds and you didn't give us all of the facts and know I look like a dope. You should have said something yesterday. Again, there is a lack of communication on this Board.

Mayor Baines replied the Alderman came in to ask me yesterday...the team that we had assembled to discuss this situation...we had a follow-up meeting in terms of reviewing what we had done and what we needed to do to go forward and basically the decision of that group was to offer this situation to the Commissioner through the mediation. We brought that to...that meeting took place just before you walked in, Alderman Cashin. Alderman Cashin did come in and say that he wanted the two attorneys to get together and that was one of the options that they would also like to pursue. That is exactly how it happened.

Alderman Hirschmann withdrew his second.

Alderman Vaillancourt stated rather than withdraw my motion, the Mayor is evincing some spirit of compromise and I think maybe we can take advantage of this and change the motion to include that in the motion and leave the motion as it is that Commissioner Lafond go back to her office on Wednesday morning, that Mr. Robidas provide the security necessary and go back with the understanding that her attorney will get together with the City Solicitor to work out the proper course of mediation. I think that would satisfy all parties.

Chairman Cashin replied that is not what we said. What we agreed to was that Tom Clark and her attorney would get together and come up with a mediator and then she could go back into the office. You can't put her back in the office without a mediator that they both agree to. You can't put her back in the office tomorrow.

Alderman Sysyn stated you are better off to let them take a week and resolve this.

Chairman Cashin stated this doesn't require a motion. We are just going to wait a week and see how this works out and if it doesn't we can always come back.

Alderman Levasseur asked can we be informed with letters coming to us about what is happening with Mrs. Lafond. I don't think she is going to show up. I don't think that she feels that she can right now after what she has been put through. We can make all kinds of motions for her to go back to work, but she doesn't have to because we don't have any control over that.

Chairman Cashin asked, Solicitor Clark, would you keep the full Board informed of any progress.

Solicitor Clark answered yes, I will.

Chairman Cashin called for a recess.

Mayor Baines called the meeting back to order.

Presentation by the Airport Director relative to the final report submitted by KM Chng pertaining to the future AES-Londonderry facility.

On motion of Alderman Wihby, duly seconded by Alderman Sysyn, it was voted to receive and file the communication.

CONSENT AGENDA

Mayor Baines advised if you desire to remove any of the following items from the Consent Agenda, please so indicate. If none of the items are to be removed, one motion only will be taken at the conclusion of the presentation.

Approve under Supervision of the Department of Highways

- A. PSNH Petitions #11-898 and 11-899 for poles off Merrill Street and Wellington Road; and
Verizon Petition #620209 for conduit on Bodwell Road at Corning Road.

Informational - to be Received and Filed

- B. Communication from the Airport Director advising of his testimony on January 23rd regarding proposed HB187-FN-L) which, if passed, would required the Airport to create its own police force.
- C. Minutes of a meeting of the MTA held on November 28, 2000 and copies of the Financial and Ridership/Transit Reports for the months of November and December of 2000.

- D. Minutes of a meeting of the Mayor's Utility Coordinating Committee held on January 17, 2001.
- E. Copy of a communication from the NH Department of Transportation advising of contemplated awards to various cities and towns.
- G. Communication from AT&T Broadband submitting the franchise fee for the 4th quarter of 2000.

REFERRALS TO COMMITTEES

COMMITTEE ON TRAFFIC/PUBLIC SAFETY

- I. Communication from Robin Bonneau requesting the use of Arms Park and the Notre Dame Bridge on Sunday, May 27, 2001, with a rain date of Monday, May 28, 2001 for the 10th Annual Memorial Weekend fireworks display.

REPORTS OF COMMITTEES

COMMITTEE ON BILLS ON SECOND READING

- K. Recommending that Ordinance Amendments:

"Amending Section 33.025 (Airport Director) of the Code of Ordinances of the City of Manchester."

"Amending Sections 33.024, 33.025 and 33.026 (Manager, Airport Operations and Facilities) of the Code of Ordinances of the City of Manchester."

"Amending Sections 33.024, 33.025 and 33.026 (Welfare Supervisor) of the Code of Ordinances of the City of Manchester."

ought to pass.

CIP SUB-COMMITTEE ON MTA

- L. Advising that the Human Resources Director has been instructed to work with MTA management regarding conducting employee exit interview surveys for data collections.

SPECIAL COMMITTEE ON THE CIVIC CENTER

- M. Advising that it has approved the following change orders:
 - Change Order #16 for \$21,880.00
 - Change Order #17 for \$11,903.00
 - Change Order #18 for \$132,676.00
 - Change Order #19 for \$71,721.00
 - Change Order #20 for \$5,474.00
 - Change Order #21 to increase the allowance carried in the GMP for temporary heat on the projectwhich were filed with the Committee (and copied to the Board) on January 23, 2001.

HAVING READ THE CONSENT AGENDA, ON MOTION OF ALDERMAN WIHBY, DULY SECONDED BY ALDERMAN O'NEIL, IT WAS VOTED THAT THE CONSENT AGENDA BE APPROVED.

- F.** Copy of a communication from Mrs. Anita Amato advising of her concerns with the recent fluoridation of the City's water system.

Alderman Shea stated this concerns the fluoridation of the City's water system and several constituents and most notably seniors, particularly those on medication, have expressed to me their opposition to the fluoridation of the City's water. I know that it was voted in referendum that we fluoridate the water, but I think that we probably at a future date might revisit this particular decision. I am not sure if others have had the same concerns, but there are quite a few elderly people on medication who indicated that they go for bottled water now rather than fluoridated water and, therefore, it is a concern. I know that I get stopped when I go to a restaurant or when I go to the supermarket. They wanted me to call it to the Board's attention.

On motion of Alderman Wihby, duly seconded by Alderman Clancy, it was voted to receive and file this item.

COMMITTEE ON FINANCE

- H.** Communication from Jean Brassard, President of Local 856, Manchester Professional Firefighters Association seeking the City's assistance with expenses incurred over \$22,000 on behalf of Brother Firefighter David Anderson's funeral.

Alderman O'Neil moved to refer this item to the Committee on Finance. Alderman Clancy duly seconded the motion.

Alderman Levasseur asked will this go to Finance tonight.

Deputy Clerk Johnson answered yes.

Alderman Levasseur stated I want to inform the Board that I talked to Frank Thomas today and it was mostly in consideration of this money. I don't know if any of you know but right now the Highway Department is at 78% of their budget for snow removal and I think 81% for salt. If we get one more storm they are going to be overbudget so I think we need to be very careful in giving away any money out of contingency. I think we should table this until after the snow season and then we can see what we have left.

Alderman O'Neil stated I can bring it up in Finance, but the Finance Officer and I have had a couple of discussions on this. He is in support of this but he raises the same concerns about snow removal and some concerns about money available at this point. I just think we need to make a commitment and maybe give the Finance Officer a period of time to come up with an appropriate...I think it is important that we go on record tonight that we are going to support this. I have an amount in mind. I know I have heard some of the other Aldermen kick it around and I am willing to make a motion on that amount and that would be \$10,000 but allow the Finance Officer some time to find an appropriate place to come up with it.

Deputy Clerk stated it is being referred to Finance.

Mayor Baines stated let's refer it to Finance and work on some wording in the meantime that would take care of the integrity of Alderman O'Neil's recommendation.

Mayor Baines called for a vote on the motion. The motion carried with Alderman Hirschmann abstaining.

J. Copy of a communication from John McDevitt, Jr. to Alderman Pariseau relative to the recent "Traffic Calming" experiment on President Road.

Alderman Vaillancourt stated I never thought I would be talking about Gold Street at 1:23 AM. This is a letter from John McDevitt, Jr. to Alderman Pariseau and it is going to the Committee on Traffic/Public Safety. It talks about the experiment on Gold Street, which I want to talk about publicly since I haven't before but I think this was a disaster. I think we should stop doing things that entice people to break the law. I did notice...I talked to the Chief of Police and not a single person was stopped for breaking that law and going through those barriers when it must have happened thousands of times. So, we never intended to enforce that. We shouldn't be doing things like this. I do want to say, however, that I disagree with one line, one concept in Mr. McDevitt's letter. He said that he was pleased to see the erection of a stop sign midway on President Road. I disagree totally with that. We should not be putting stop signs in the middle of streets where there is no reason for somebody to have to stop. We cannot be using stop signs when the real intent is to slow people down. If Tom Lolicata was here, I am sure he would agree with me.

On motion of Alderman Vaillancourt, duly seconded by Alderman Hirschmann, it was voted to refer this item to the Committee on Traffic/Public Safety.

Report of Special Committee to Review Energy Contracts and Related Projects

- N. Recommending that the Board of Mayor and Aldermen authorize the Mayor to execute the enclosed agreement with CHI Energy, Inc. relating to the management and operations of the Amoskeag Hydro Station, subject to the review and approval of the City Solicitor.

Alderman Lopez stated I sat it on the Committee meeting on this and it was very interesting to hear a lot of different comments between Alderman Gatsas and Randy Sherman. I asked Randy Sherman to fax to me this afternoon a chart on this because I was trying to make my decision on which way to go. I am not interested in looking at whether the City should be involved in this, but I have been asked to take another look. The question I have is should we be involved in the Amoskeag Hydro Station. There are a lot of technical and financial aspects to this whole thing that I don't think has been broken down properly. I wanted to ask the Committee at this time if they have any other recommendations.

Alderman O'Neil stated I am not a member of the Committee, but my guess was that this was going to take up a lot of discussion tonight but might it be appropriate to table this.

On motion of Alderman O'Neil, duly seconded by Alderman Vaillancourt, it was voted to table this item.

Nominations to be presented by Mayor Baines, if available.

There were no nominations presented.

Deputy Clerk Johnson noted that a Resolution was distributed to the Aldermen and we would need a motion to read that by title only.

Resolution:

“Authorizing the Finance Officer to effect a transfer of One Thousand Dollars (\$1,000) from Contingency to Civic Contributions for a donation to the Manchester Fire Department Memorial Fund.”

On motion of Alderman Thibault, duly seconded by Alderman Pinard, it was voted to read by title only and it was so done.

On motion of Alderman Pinard, duly seconded by Alderman Clancy, it was voted to refer this Resolution to the Finance Committee.

On motion of Alderman O'Neil, duly seconded by Alderman Thibault, it was voted to recess the regular meeting to allow the Committee on Finance to meet.

Mayor Baines called the meeting back to order.

OTHER BUSINESS

A report of the Committee on Finance was presented recommending that a Resolution:

“Authorizing the Finance Officer to effect a transfer of One Thousand Dollars (\$1,000) from Contingency to Civic Contributions for a donation to the Manchester Fire Department Memorial Fund.”

ought to pass and be enrolled.

On motion of Alderman Clancy, duly seconded by Alderman Lopez, it was voted to accept, receive and adopt the report.

Deputy Clerk Johnson noted that the Finance Committee has voted to earmark funds from Contingency in the amount of \$10,000 pending availability of funds and the Finance Officer will advise the Board at a later date.

Report of the Committee on Bills on Second Reading recommending that Ordinance:

“Amending the Zoning Ordinance of the City of Manchester by comprehensively Revising the Zoning Ordinance including changes to the Text, Tables, and Maps.”

ought to pass as amended.

The Committee further recommended that following a report from Planning regarding potential amendments, the Board suspend the rules and place the Ordinance on its final reading by title only, without Enrollment or referral to the Committee on Enrollment, and Ordain such ordinance at the February 6 meeting of the Board. The Committee notes such action is recommended as the proposed ordinance is causing delays on the issuance of building permits, etc. for residents and developers.

The Committee advised that it had requested the Planning Director to make a report to the full Board on February 6 with recommendations relating to the following items:

1. Request from Nick Lazos on behalf of Feldco Development to rezone approximately 4.5 acres of Donovan Spring property along Loring Street and Faltin Drive from Industrial to B-2 to accommodate the proposed Shaw's Supermarket. Currently, the zone boundary (I-3/B-3) cuts through some of the Donovan properties. This project may have significant impact.
2. Request of Richard Fradette on behalf the owner and tenant at 466 South Willow Street (Auto-Torium) requesting the entire parcel be zoned business.

The Committee recommended the Board accept the following items under a “Lookback Provision” directing that the Planning Department review the items over the next year:

1. Rezone residential lots on South Willow in the vicinity of Seames, Laxon and Doris Streets (Rick Fradette, Bob Bennett & others). This area has been reviewed in the past for possible conversion to commercial. The primary reservation has been that when these corner lots are developed commercial they may impact the residences immediately adjacent to them and if curb cuts are allowed on Seames, Laxon and Doris, the other residences on these streets could be negatively impacted by traffic. The lots fall into gray area in balance between neighborhood protection and profitable use of individual properties. In the long term it may not be reasonable to retain lots as residential, but every effort should be made to mitigate the impact on the remaining properties on the side streets. The proposed ordinance was amended to add a professional overlay. This zone will have considerable less impact on residential abutters, but the market for these lots for professional office use would be less than standard retail and commercial. Further change to B-2 reflects need for precautions on buffers and limitations on curb cuts are advised.
2. Request to rezone Brown Avenue – Eastside north of the airport access road from residential to commercial (property owners and former Alderman Richard Girard). This area has been hard hit by traffic and its suitability for residential use has been diminished. Converting to strip commercial without controls however would create additional traffic from multiple curb cuts. The additional traffic and commercial character could negatively impact the remaining residential areas as well as further reduce access to and from the airport. While the frustration for Brown Ave homeowners is high, rezoning to commercial use will significantly impact the remaining property owners living off Brown Ave.
3. Rezone portions of Countryside Village (Atty. For Alliance Resources). Item pertaining to a small commercial zone to serve this Hackett Hill development. Staff is generally supportive of this commercial area, it is more suitable to allow additional review and hearing.
4. Rezone lots adjacent to 320 Manning Street to R-2 from R-1B (Carol Sampson). Property owner is looking to allow a two-family home. This area has been zoned R-1B since inception of the ordinance. R-2 designation could double dwelling unit density. The change would affect a number of property owners in the neighborhood. Detailed land use survey should be conducted along with neighborhood meetings to determine suitability for rezoning.
5. Revisions to Airport Overlay Districts (Kevin Dillon). Two specific issues raised at hearing: 1) airport management would like to see a requirement in the ordinance requiring the submittal of the Aviation Administration Notice of Proposed Construction or Alteration as required under Federal regulations; 2) airport management recommends adopting a more stringent noise attenuation guideline that would include the areas between the 60 DNL and 70 DNL noise contour. While more houses would be eligible for federal money for soundproofing, new houses constructed within the designated noise contours would have to incorporate accepted soundproofing methods.

The task of addressing city and airport issues is significant. More details need to be worked out.

6. Rezone 264 South Lincoln Street to B-2 from the present R-1B (owners of business at location).
The owners of "Perfect Images" have been operating their hair salon in the building since 1978. According to the appraisers for the City, 60% of the building is being used as a residence and 40% as the salon. While this house abuts the B-2 zone line and is across the street from other businesses, the residence/business is adjacent to other residences.
7. Rezoning of rear portion of Mallard Pond Plaza property (Attorney for Mallard Pond Realty Trust).
Currently the property is split-zoned, with a portion of the property along Second Street zoned B-3 and a portion in the rear zoned R-1B. The zone boundary runs through two of the three existing buildings. The proposed zoning map only changes the B-3 designation to B-2, it does not change the boundary lines. Many of the uses in the plaza are there by action of the ZBA.

The property owner would like the entire site to be included in the B-2 zone, and feels that the wetlands offer an appropriate buffer for the residences that back up to their property. The property zoned R-1B, in the rear portion is recommended for Lookback review.
8. Rezone property at 685-689 Massabesic Street, along with adjacent properties at 667 Massabesic Street, 683 Massabesic Street and 1091 Valley Street from R-2 to B-2 (Steve Cotran, Bedford, owner of 685-689 Massabesic Street).
The property on Valley Street is a service station and the properties on Massabesic Street contain retail and office use on the first floor, with residential uses on the upper floors. These properties are located across from Billy's Sports Bar and Grill at the intersection of Valley Street, Massabesic Street and Tarrytown Road, and Mr. Cotran feels that the properties are tied more directly to these businesses than to the residential units surrounding this block.
9. Rezone 3 lots on southeasterly side of Candia Road from residential to commercial (Norris Viviers on behalf of three property owners Spectrum Investment Group, Inc., George Spiro and NH Services, Inc.).
The three lots comprise approximately 12 acres and include the Golden Rod restaurant, Crystal Orchid Flower and Candle Shop and Hazelton Equipment and are currently zoned R-1B. The proposed zoning map would change this area of Candia Road to R-1A. The property owners believe the area is more suited to commercial development and would like the properties rezoned to B-2.
10. Concerns expressed by Manchester Neighborhood Housing Services that sections of ordinance would have possible negative impacts on center city.
The concern relating to private investors tearing down buildings to create surface parking lots for the Civic Center is believed to be addressed through the provision added that commercial surface parking lots are not permitted within 1000 feet of the Civic Center site. Some items still being reviewed by staff.

11. Testimony referencing the Master Plan for the City of Manchester and suggesting a “Traditional Neighborhood Commercial Center Overlay District” be added in specific areas of the City referenced (Mr. Larkins).
The staff generally agrees with these principals, particularly as they may apply to the B-1 district. There has not been adequate time to review how these could be appropriately melded into the ordinance and whether there would be any negative consequences.

Alderman Wihby moved to suspend the rules and place the Ordinance on its final reading by title only, without Enrollment or referral to the Committee on Enrollment. Alderman Cashin duly seconded the motion.

Alderman Wihby stated basically there are items in here but we took a recommendation from the Planning staff. There are a couple of different items that we wanted to have some sort of response to today and that is what that letter is. Basically, on the property of Donovan Springs, the request was...on number one and two there. On number one, which was the Shaws Supermarket, they withdrew that and will come forward at a later date and do the rezoning of that if they need to by themselves. That is withdrawn so we don't even have to talk about that today. On the Auto-Torium, the response from the Planning staff after looking at it was to have that as a Lookback provision and not to rezone anything today. Again, if they are going to rezone something in the future, they would have to come back and go through the process. The other items, your Honor, that would have to further amend this would be that we heard some testimony today from Artemis on two different things and everybody has a copy that she distributed. The Planning staff has reviewed this and decided that it was good to keep in there so we would have to amend the ordinance for those two items that came up. This doesn't address Gold Street. They are going to have to come back for Gold Street on a rezoning separate from this. All 11 items that are listed are basically questions or problems or letters that we received from people looking for us to make different changes in the zoning and the recommendations were all accepted as far as what the Planning staff had recommended.

Alderman Hirschmann moved to amend the Ordinance to include the two items from Artemis Paras. Alderman Sysyn duly seconded the motion. Mayor Baines called for a vote on the motion. There being none opposed, the motion carried.

Alderman O'Neil stated for Kevin Dillon on what I have here as Item 2, request to rezone Brown Avenue. Kevin, are you in support of that?

Alderman Wihby replied that is a Lookback.

Alderman O'Neil asked on Item 10 we are only talking about buildings being torn down to create parking. If somebody has a lot now, they have a right to have parking on that lot correct?

Mr. MacKenzie answered yes. If they have an existing lot there they may use it and continue to use it. It does not in any way stop them.

Alderman Clancy asked where the fire was at 178 Spruce Street I understand that the owner is going to tear it down. I don't want it to become a parking lot for the civic center and have them charge \$5 or \$6 a car.

Mayor Baines answered the last I heard on that was that it was going to be rebuilt. I am not 100% sure though.

Alderman Vaillancourt stated I really wish we weren't doing this at this hour because I think this is a major step. I would have preferred to table it tonight. The voters of Ward 8, at least the neighborhood of Ward 8 have serious reservations about Item 2 on Page 5. I certainly am glad that that is not going to be included. However, that appears as Item 1 on the next page. Is that correct?

Alderman Clancy replied that is two different pieces of land. That is the vacant lot. The other one was the car lot.

Alderman Vaillancourt asked so Item 1 is a Lookback on a different piece of land, but...

Alderman Clancy interjected Item 2 is Auto-Torium and Item 1 is the vacant lot where Global has the sign up.

Alderman Vaillancourt stated so what you have done on Item 1, I believe is you gave them a professional overlay. So that becomes Item 1 on the next page? Well, I am not going to oppose the professional overlay, but I certainly would very strenuously oppose anything beyond that. I understand that it is only a Lookback so I suppose it is okay.

Alderman O'Neil stated I just want to make sure that I understand what Alderman Vaillancourt said. What I see is Item 2 on Page 5 is also Item 1 on Page 6?

Alderman Clancy replied no, it is not.

Alderman Wihby stated Item 2 on Page 5 is over with. That is going to have to come back at a different time. Item 1 is where they wanted B-2 and the Planning staff recommended the overlay.

Alderman Vaillancourt stated so as I understand it, they will have the professional overlay now and anything more liberalized, shall we say, would have to come back for a Lookback. Well I would like to say that I strenuously oppose that, but I suppose I will wait until next year to do it. I also would like to say that for the Lookback Item 2, your Honor was with me at Bethany Chapel in Ward 8 on Sunday night and I think you heard the opinion there that the residents in that area, about 95% of them I think I can say with all honesty, do not want that section of Brown Avenue rezoned commercial so I will buy it now simply because it is another Lookback, but I am certainly very glad that you did not go forward with that at this time. We will fight that battle next year.

Alderman Hirschmann asked on the Lookback provisions, I want to oppose Item 3 specifically. I don't mind voting on the rest of the proposal, but I want to oppose that. Can we vote on that separately?

Mayor Baines answered what we could do is keep it in its entirety and then we could record you specifically as opposed to Item 3.

Alderman Hirschmann stated I made a commitment to my constituents that I would not rezone any residential parcels into commercial property during my term. That is not going to happen.

Alderman Levasseur stated I really have a problem with Item 10. Commercial surface parking lots are not permitted within 1,000 feet of the civic center site. Would we rather have them somewhere else? Within 1,000 feet is next to the civic center. If a hotel decides to take over the block on the corner of Merrimack and Elm and put a high rise up there and put parking underneath...what can we do about this? This is a Lookback. I think this is the place where you have to put them. You don't want to put them beyond 1,000 feet. Within 1,000 feet would be good because that whole area is pretty...I mean look at Michael's School of Hair Design and that area. That is a perfect place and that is within 1,000 feet. Across the street there is a little parking lot there where the Fleet Center is. Another spot that is within 1,000 feet. I think maybe we are supposed to be outside 1,000 feet.

Mr. MacKenzie replied there was significant concern from the neighborhood that buildings not be torn down for surface parking lots but freestanding. So, a hotel could come in and put in a surface parking lot with their hotel and that would be no problem. What this provision was talking about was to tear down a building on an entire lot and only use the lot for renting of spaces to cars. Again, the concern was that particularly the neighborhood adjacent to it would be seriously impacted.

Alderman Levasseur asked is there a residential neighborhood somewhere within 1,000 feet. I can't even think of any apartment buildings...all the way over to Auburn Street maybe. Is that where you are talking about?

Mr. MacKenzie answered yes. The primary area of concern was the area on Lake Avenue, Spruce Street, Cedar Street and those streets. Once they become residential they are within 1,000 feet of the civic center.

Alderman Levasseur stated I think it is beyond 1,000 feet though. I really would like to strike that language to say maybe past 1,000 feet.

Alderman Sysyn stated you are on that Committee for what we are going to do with the surrounding area anyway so that will be decided with Mr. Boutin's Committee and you are the Vice Chair.

Alderman Levasseur replied yes, I know. What do you think, Alderman Wihby?

Alderman Wihby responded it is just a Lookback.

Alderman Levasseur stated well I just want to make sure that I protect my area over there.

Deputy Clerk Johnson stated the Clerk would like to clarify that the 1,000 feet is existing in the ordinance as it is written at this time. The rest of the provisions have been sent for a Lookback, but within 1,000 feet is part of the current ordinance proposed.

Mayor Baines called for a vote on the zoning Ordinance amendment as amended. The motion carried with Alderman Hirschmann being duly recorded in opposition to Item 3 of the Lookback, Alderman Vaillancourt being duly recorded in opposition to Items 1 and 2 of the Lookback, Alderman Levasseur being duly recorded in opposition to Item 10 of the Lookback, Alderman O'Neil being duly recorded in opposition to Item 1 of the Lookback, and Alderman Cashin abstaining from any item that has to do with Hackett Hill.

Deputy Clerk Johnson stated as I understand it the report was amended to amend the ordinance according to what Ms. Paras had raised for concerns earlier. We would now need a motion to suspend the rules and place the ordinance on its final reading by title only at this time without referral to the Committee on Enrollment.

On motion of Alderman Wihby, duly seconded by Alderman Pinard, it was voted to suspend the rules and place the ordinance on its final reading by title only without referral to the Committee on Enrollment.

Ordinance:

“Amending the Zoning Ordinance of the City of Manchester by comprehensively Revising the Zoning Ordinance including changes to the Text, Tables, and Maps.”

On motion of Alderman Wihby, duly seconded by Alderman Clancy, it was voted to read the Ordinance by title only, and it was so done.

This Ordinance having had its final reading by title only, Alderman Wihby moved on passing same to be Ordained. Alderman O’Neil duly seconded the motion. There being none opposed, the motion carried.

Communication from the City Clerk suggesting a date of March 14, 2001 at 6:00 PM for a public hearing on the two (2) proposed Charter Referendum questions relating as follows:

- 1) a proposed charter change to provide that the school district shall be a department of the city and that the mayor shall have control over the form and procedures for preparation and adoption of the school department budget; and
- 2) a proposed charter change to provide that the position of Commissioner of Welfare be changed from an elected position to a position nominated by the Mayor and Confirmed by a vote of eight (8) aldermen.

and further detailed as enclosed.

Alderman Wihby moved to refer the proposed referendum questions to a public hearing on Wednesday, March 14, 2001 at 6:00 PM in the Aldermanic Chambers of City Hall. Alderman O’Neil duly seconded the motion.

Alderman Levasseur stated on Item 2 I believe that the statute the way I read it said that it had to be by a vote of 2/3 of the Aldermen and I don’t...I think eight is not the right number if it was going to be changed.

Solicitor Clark replied the Board voted not to follow the statutory process for changing the Welfare Commissioner to an appointed position. What they did was they referred the question of amending the Charter to make it an appointed position. This follows the same...the eight Aldermen that you see here would be the confirmation. If the Charter gets changed she becomes a department head appointed by the Mayor subject to confirmation by the Aldermen – the same as any other department head.

Alderman Levasseur stated but in order to make this amendment we would need 2/3 and not a vote of eight.

Solicitor Clark replied no. You are sending a question of whether to amend the Charter to public hearing.

Alderman Levasseur stated I made the motion to send that question to a public hearing and I would like to withdraw that motion and take this off and not send this to a public hearing. I am not going to vote anyway to make this a...I want this to stay as an elected position. I don't remember who made the second to the motion, but I would ask that they withdraw that.

Mayor Baines asked Solicitor Clark what would be the proper procedure.

Solicitor Clark answered the proper procedure would be for the Board not to refer the question to a public hearing.

Alderman Wihby withdrew his motion to refer the two questions to a public hearing.

Alderman O'Neil withdrew his second.

Alderman Wihby moved to refer the first proposed referendum question to a public hearing on Wednesday, March 14, 2001 at 6:00 PM in the Aldermanic Chambers of City Hall. Alderman O'Neil duly seconded the motion.

Mayor Baines called for a vote on the motion. There being none opposed the motion carried.

Alderman Levasseur moved that the second proposed referendum question not be sent to a public hearing and that the Welfare Commissioner position remain an elected position. Alderman Clancy duly seconded the motion.

Mayor Baines called for a vote on the motion. The motion carried with Aldermen Wihby and Gatsas being duly recorded in opposition. Mayor Baines vetoed the motion.

Mayor Baines stated I am vetoing the motion because I believe that we should allow the people the opportunity to be heard on this. This has been the subject of much debate. I believe that we have a responsibility to let the community be heard on this subject and I would urge the Aldermen to sustain my veto.

Alderman Hirschmann moved to override the veto. Alderman Levasseur duly seconded the motion.

Alderman Levasseur stated I probably would have allowed it to go to a hearing but after reading the August 8, 2000 letter and the fact that you told her that she would either work with this office or you would propose a resolution to change the position from elected to appointed, I think the way that was done was not appropriate and I think that this has been blown way out of proportion and that is why I am going to vote to override your veto.

Alderman Hirschmann stated the Board members did receive a communication from a woman in my ward named Doris Gagne and in that letter the very closing statement says “part of the animosity created amongst the Welfare Commissioner’s position seems to be the fight over the appointed versus elected that the Mayor has proposed.” I want everyone to look at that communication from Doris Gagne from Ward 12 and read it and take it into consideration. Thank you.

Mayor Baines called for a roll vote on the motion. Aldermen Levasseur, Sysyn, Clancy, Pinard, O’Neil, Lopez, Shea, Vaillancourt, Cashin, Thibault and Hirschmann voted yea. Aldermen Wihby and Gatsas voted nay. The motion carried.

Communication from Thomas Seigle, EPD, seeking authorization to purchase a parcel of land on Pond Drive (appraised at \$30,000.00) for the construction of a sewage pumping station as part of the Cohas Brook Interceptor, Phase I Project.

Alderman Vaillancourt moved to approve the request subject to the review and approval of the Public Works Director and the City Solicitor and to authorize the Mayor to execute any and all related documents on behalf of the City. Alderman Thibault duly seconded the motion.

Alderman Vaillancourt stated this is a wonderful effort by the EPD of fulfilling a commitment that was made to the people on Pond Drive long before I ever considered going into public office. They have worked very hard to get this. It hasn’t been easy. I talked to some constituents down there today who are very pleased so I am very happy to move this.

Mayor Baines called for a vote on the motion. There being none opposed, the motion carried.

Communication from the Robert Beaurivage, Assistant Water Works Director seeking approval to purchase a one-acre parcel of land for a future water tank site located in a proposed 18-lot subdivision on the south side of Morrill Road in Hooksett, NH at a sale price of \$75,000.00.

Alderman Clancy moved to approve the request subject to review and approval of the City Solicitor and to authorize the Mayor to execute any and all related documents on behalf of the City. Alderman Pinard duly seconded the motion.

Mayor Baines called for a vote on the motion. There being none opposed, the motion carried.

NEW BUSINESS

Deputy Clerk Johnson stated there was a House Bill, which I distributed to the Board. It is House Bill 435 relative to assessment of service charges by municipalities and counties that accept credit cards for payment of local taxes, utility charges or other fees. I am presenting this to the Board actually at the request of some of the clerks at NH Log In. It would allow the municipality not to charge additional fees, which credit card companies don't allow you to do. It basically opens you up to e-mail services and credit card services. I am presenting it to the Board asking for your support and endorsement so that at the hearing on February 20 somebody can go up and testify on behalf of the City.

Alderman Hirschmann moved that the Board of Mayor and Aldermen support House Bill 435. Alderman Wihby duly seconded the motion.

Mayor Baines called for a vote on the motion. There being none opposed, the motion carried.

Alderman Pinard stated maybe you should call Kevin Dillon on the outstanding job that they did at the Airport yesterday in that major snowstorm.

Mayor Baines replied I agree and also our Public Works Department did an extraordinary job.

Alderman Vaillancourt stated there is another bill that is coming before the House. It is just being printed today, but it would impose...I sent you a document a couple of weeks ago, it was going to be a 2% entertainment tax and it is now up to 5%. It is a bill sponsored by Representative McGurk from Walpole. It very negatively impacts the civic center. David Scannell today said is this something you and Skip Ashooh are going to be on the same side on. I guess I plead guilty. Watch for that bill. I will send it to you tomorrow if I get a copy of it. It would be a 5% entertainment tax on all theatres, Clark's trained bears, ski areas, and hockey games.

Mayor Baines replied there would probably also be a tax on attending these meetings as well.

Alderman Sysyn stated I just wanted to bring this up. In my ward there is a lot of apartment buildings and they leave their garbage out for a whole week and your fine for the landlords right now is \$25 and they are just laughing at you. I think we should raise that fine. I had one landlord tell somebody that it cost him \$200 a year so what did he care.

Mayor Baines asked what Committee should we send that to.

On motion of Alderman Sysyn, duly seconded by Alderman Levasseur, it was voted to refer the item to the Committee on Community Improvement.

Alderman Shea asked for clarification on what Alderman Sysyn was talking about.

Alderman Sysyn answered sometimes people put out their garbage on Thursday and the pick-up is the following Tuesday. I get complaints all the time. The same people are always violating this law. The landlords are just laughing at you. You charge them \$25 everytime that happens. We should raise that fine.

Deputy Clerk Johnson stated I have one more item. We need to enroll the Resolution.

On motion of Alderman Levasseur, duly seconded by Alderman Pinard, it was voted to read the Resolution by title only and it was so done.

Resolution:

“Authorizing the Finance Officer to effect a transfer of One Thousand Dollars (\$1,000) from Contingency to Civic Contributions for a donation to the Manchester Fire Department Memorial Fund.”

On motion of Alderman Pinard, duly seconded by Alderman Clancy, it was voted that the Resolution be enrolled.

TABLED ITEM

14. Report of the Committee on Accounts, Enrollment and Revenue Administration

Recommending that the City request the State Legislature amend RSA 80:56 which would authorize cities and towns to charge a fee of \$50 plus all protest, bank and legal fees for uncollected checks.
(Tabled 01/23/01 pending presentation from Finance.)

This item remained on the table.

There being no further business, on motion of Alderman Cashin, duly seconded by Alderman Clancy, it was voted to adjourn.

A True Record. Attest.

City Clerk